

RESOLUTION OF THE  
NAVAJO NATION COUNCIL

23rd NAVAJO NATION COUNCIL—FIRST YEAR, 2015

AN ACT

RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, RESOURCES AND DEVELOPMENT, BUDGET AND FINANCE, LAW AND ORDER, NAABIK'ÍYÁTI' AND NAVAJO NATION COUNCIL; AMENDING NAVAJO NATION CODE TITLE 24 BY ENACTING THE ALCOHOL TAX

BE IT ENACTED:

**Section One. Findings**

- A. The Navajo Nation Council established the Health, Education and Human Services Committee (HEHS) as a Navajo Nation standing committee and as such empowered HEHS to review and recommend resolutions regarding social services. 2 N.N.C. §§ 164 (A) (9), 400 (A), 401 (B) (6) (a) (2012) see also CO-45-12.
- B. The Navajo Nation Council established the Resources and Development Committee (RDC) as a Navajo Nation standing committee and as such empowered RDC to review and to make recommendations to the Navajo Nation Council for final approval, resolutions regarding taxation proposals affecting business or commercial activities. 2 N.N.C. §§ 164 (A) (9), 500 (A), 501 (B) (4) (d) (2012) see also CO-45-12.
- C. The Navajo Nation Council established the Budget and Finance Committee (B&F) as a Navajo Nation standing committee and as such empowered B&F to review and to recommend to the Navajo Nation Council resolutions regarding fund management. 2 N.N.C. §§ 164 (A) (9), 300 (A), 301 (B) (2) (2012) see also CO-45-12.
- D. The Navajo Nation Council established the Law and Order Committee (LOC) as a Navajo Nation standing committee and as such empowered LOC to review and make recommendations to

the Navajo Nation Council on proposed Navajo Nation Code amendments and enactments. 2 N.N.C. §§ 164 (A)(9), 600 (A), 601 (B)(14) (2012) *see also* CO-45-12.

- E. The Navajo Nation Council established the Naabik'íyáti' Committee as a Navajo Nation standing committee and as such proposed legislation that requires final action by the Navajo Nation Council shall be assigned to the Naabik'íyáti' Committee. 2 N.N.C. §§ 164 (A)(9), 700 (A) (2012) *see also* CO-45-12.
- F. The Navajo Nation Council must review and approve enactments of positive law. 2 N.N.C. § 164 (A) (2012) *see also* CO-45-12.
- G. The Navajo Nation Council recognized in Diyin Bits'áádeé Beehaz'áanii that they will "use their experience and wisdom to always act in the best interest of the people ...ensure the rights and freedoms of the generations yet to come...[and] enact policies and laws to address the immediate and future needs..." 1 N.N.C. § 203 (A) and (D) (2009).
- H. The Navajo Nation finds the following Navajo Nation Code amendment, Title 24, in the Navajo Nation's best interest.

**Section Two. Amendments to Title 24 of the Navajo Nation Code**

The Navajo Nation hereby amends Title 24 of the Navajo Nation Code, 24 N.N.C. §§ 1201-1224, as follows:

**NAVAJO NATION CODE ANNOTATED**

**TITLE 24. TAXATION**

**CHAPTER 12. ALCOHOL TAX**

**§1201. Short title**

The tax imposed by this Chapter shall be called the "Alcohol Tax".

**§1202. Purpose**

The Navajo Nation Council hereby enacts this tax for the privilege of engaging in business activity within the Navajo Nation, and for purposes of defraying necessary governmental expenses incurred in providing for the public welfare.

**§1203. Tax Imposed**

A tax is hereby imposed on the gross receipts of a person. The tax due for a period is determined by first calculating applicable gross receipts from all alcoholic beverages sold for a period, and then multiplying those gross receipts from all alcoholic beverages sold by the applicable tax rate.

**§1204. Legal Incidence and Responsibility for Payment**

There is hereby levied and imposed by this Chapter for each period a tax upon the first sale by any retailer or distributor of Alcohol products.

**§1205. Rate of Tax**

- A. The tax imposed by this Chapter is imposed at a rate of not less than two percent (2%), nor more than six percent (6%), which shall be specifically established by regulations promulgated by the Navajo Tax Commission. Until a rate is established, the rate shall be three and a quarter percent (3.25%) of all alcoholic beverages sold (.0325 x all alcoholic beverages sold).
- B. This section imposes an additional tax rate over and above the tax rate approved by the Navajo Tax Commission in accordance with 24 N.N.C. § 605 (A).
- C. Alcohol Tax shall not be administered in accordance with the Junk Food Tax.

§1206. Administration

All provisions of the Uniform Tax Administration Statute apply to this Chapter. The Navajo Nation Council charges the Office of the Navajo Tax Commission with the administration of this tax. The Office of Navajo Tax Commission shall retain one quarter (0.25%) percent of all gross sales for administrative expenses.

§1207. Definitions

Subject to additional definitions (if any) contained in the subsequent sections of this Chapter, and unless the context otherwise requires, in this Chapter:

- A. "Alcoholic beverages" shall mean distilled or rectified spirits, potable alcohol, brandy, whiskey, rum, gin, aromatic bitters, or any similar beverage, including blended or fermented beverages, dilutions or mixtures of one or more of the foregoing containing more than one-half of one percent alcohol by volume, but "alcoholic beverages" does not include medicinal bitters;
- B. "Beer" shall mean an alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt and hops or other cereals in water and includes porter, beer, ale and stout;
- C. "Cider" shall mean an alcoholic beverage made from the normal alcoholic fermentation of the juice of sound, ripe apples that contains not less than one-half of one percent of alcohol by volume and not more than seven percent of alcohol by volume;
- D. "Office of the Navajo Tax Commission" is located within the Navajo Nation Executive Branch and is responsible for the administration of the Navajo Tax Code. "Commission" means the Navajo Tax Commission.
- E. "Person" as defined in the Uniform Tax Administration Statute, shall include any organization, whether a sole proprietorship, partnership, joint venture, trust, estate, unincorporated association, company, corporation, or

government (other than the Navajo Nation government), or any part, division, or agency of any of the foregoing, and an individual or group of individuals. In accordance with §1208 of this Chapter, "person" for purposes of the Alcohol Tax shall include the government of the Navajo Nation, or political subdivisions or enterprises thereof.

- F. "Spirituous liquor" shall mean an alcoholic beverage, except fermented beverages such as wine, beer, cider and ale;
- G. "Wine" shall mean an alcoholic beverage other than cider that is obtained by the fermentation of the natural sugar contained in fruit or other agricultural products, with or without the addition of sugar or other products, and that does not contain more than twenty-one percent alcohol by volume.

#### §1208 Navajo Nation Government

- A. Sales by corporations owned by the Navajo Nation government or any political subdivision thereof shall be fully subject to the tax imposed by this Chapter.
- B. Sales by the government of the Navajo Nation, or political subdivisions or enterprises thereof, shall be subject to the tax imposed by this Chapter.

#### §1209 Exemptions and Exclusions

- A. The tax imposed by this Chapter does not apply to gross receipts generated directly by the following:
1. Sales for resale;
  2. Sales related to agricultural, farming, or livestock activities conducted within the Navajo Nation;
  3. Sales, other than sales from an unrelated trade or business as defines in §§511 - 513 of the Internal

Revenue Code, by any person operating exclusively for non-profit or charitable purposes, and recognized as such pursuant to § 501 (C)(3) and 501 (C)(19) of the United States Internal Revenue Code at the time of sale;

4. Sales by hospitals and health-care organizations or facilities, such as nursing care institutions, residential care and mental health facilities, senior citizen care facilities or retirement homes, kidney dialysis facilities and blood banks, or other facilities which provide medical care and services.
- B. Nothing in this Chapter shall be construed as imposing directly upon the United States a tax which is prohibited by Federal Law.

**§1210. Filing of Return**

- A. Each person must file a return indicating all sales from applicable gross receipts and the tax due under this Chapter for each period by the fifteenth day of the second month after the end of each calendar quarter. Returns are due on February 15, May 15, August 15, and November 15 of each calendar year.
- B. The Commission may by form or regulation require that other information, records or relevant documents which it deems necessary for the proper and efficient administration of this Chapter be included with the return and signed by a specified person.

**§1211. Payment of Tax**

Payment in full of the taxes owed for a particular period is due on the same date that the completed return for that same period is due. The Office of the Navajo Tax Commission, however, may require payment of any taxes due on a monthly basis.

**§1212. Recordkeeping**

- A. Each person shall keep all records which pertain to or relate in any manner to all alcohol sales from any business activity engaged in at any time by such person. Such records shall be maintained separately for each reporting period during which a person is engaged in business activity.
- B. Records required to be kept must be preserved for four years beyond the end of the period for which the records relate.

**§1213. Allocation of Revenue**

After allocation to permanent or special revenue funds as required by Navajo Nation law, and allocation to the Tax Administration Suspense Fund as required by the fiscal policy adopted by the Navajo Tax Commission for such Fund, the net revenue from this Chapter shall be dedicated to the Division of Public Safety's use. The alcoholic beverage tax revenues shall be retained in a special fund entitled "Division of Public Safety Alcohol Tax Fund" and shall be administered by the Division of Public Safety Executive Director, with the Navajo Nation laws and utilizing the prudent person rule, be applied for the appropriate expenditure of the Division. The Division of Public Safety is authorized to develop and recommend to the Navajo Nation Budget and Finance Committee the fund management plan.

**§1214. No Conflict with Local Governance Act**

The provisions of this Chapter and corresponding regulations shall not be construed inconsistently with the Local Governance Act, 26 N.N.C §§ 1-2008.

§1215. Severability

If any provision of this Chapter, as amended, or its application to any person or circumstance, is held invalid by a final judgment of a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of the Chapter which can be given effect without the invalid provision or application, and to this end, the provisions of this Chapter are severable.

§1216. Repeals

All laws or parts of laws (or attachments thereto) which are inconsistent with the provisions of this Chapter are hereby repealed, including, without limitation, any law purporting to waive any right of taxation by the Navajo Nation.

§1217. Reserved

§1218. Reserved

§1219. Reserved

§1220. Reserved

§1221. Reserved

§1222. Reserved

§1223. Reserved

§1224. Reserved

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**Section 3. Development of a Fund Management Plan**

The Division of Public Safety is directed to develop a Division of Public Safety Alcohol Tax Fund Management Plan.



**Section 4. Effective Date**

The amendments enacted herein shall be effective pursuant to 2 N.N.C. §221(B), and after the Navajo Tax Commission has promulgated the regulations, but no later than October 1, 2015.

**Section 5. Codification**

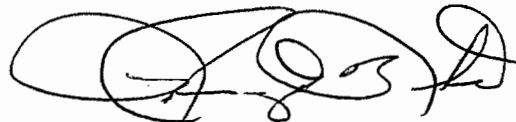
The provisions of the Act which amend or adopt new sections of the Navajo Nation Code shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel shall incorporate such amended provisions in the next codification of the Navajo Nation Code.

**Section 6. Savings Clause**

Should any portion of the amendment enacted herein be determined invalid by the Navajo Nation Supreme Court, or the District Court of the Navajo Nation, without appeal to the Navajo Nation Supreme Court, those portions not determined invalid shall remain in law of the Navajo Nation.

**CERTIFICATION**

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 10 in favor and 9 opposed, this 23<sup>rd</sup> day of July 2015.



LoRenzo Bates, Speaker  
Navajo Nation Council


7/29/15

Date

Motion: Honorable Davis Filfred  
Second: Honorable Otto Tso

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I hereby sign into law the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (10), on this 7<sup>th</sup> day of August 2015.

  
\_\_\_\_\_  
Russell Begaye, President  
Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (11), this \_\_\_\_\_ day of \_\_\_\_\_ 2015 for the reason(s) expressed in the attached letter to the Speaker.

\_\_\_\_\_  
Russell Begaye, President  
Navajo Nation

**23<sup>nd</sup> NAVAJO NATION COUNCIL**

First Year 2015

Mr. Speaker:

The **BUDGET & FINANCE COMMITTEE** to whom has been assigned

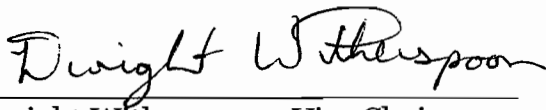
**NAVAJO LEGISLATIVE BILL # 0084-15:**

An Act Relating to Health, Education and Human Services, Resources and Development, Budget and Finance, Law and Order, Naabikiyati and Navajo Nation Council; Amending Navajo Nation Code Title 24 by Enacting the Alcohol Tax *Sponsored by Edmund Yazzie, Council Delegate*

has had it under consideration and reports the same with the recommendation that It **Do Pass** without amendment.

And therefore, referred to the **NAABIKIYATI** Committee

Respectfully submitted,

  
Dwight Witherspoon, Vice Chairman

Adopted: \_\_\_\_\_  
Legislative Advisor

Not Adopted: \_\_\_\_\_  
Legislative Advisor

**26 May 2015**

The vote was **1** in favor **3** opposed

COMMITTEE REPORT

**THE HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE OF THE NAVAJO NATION COUNCIL** to whom has been assigned;

**LEGISLATION NO. 0084-15**

An Act Relating to Health, Education and Human Services, Resources And Development, Budget And Finance, Law And Order, Naabik'iyati' And Navajo Nation Council; Amending Navajo Nation Code Title 24 By Enacting The Alcohol Tax

Has had under consideration and report the same with the recommendation that it **PASS** with no amendment and no directive;

And therefore referred the same to the **RESOURCES AND DEVELOPMENT COMMITTEE OF THE NAVAJO NATION COUNCIL**



Honorable Jonathan L. Hale, Chairperson  
Health, Education and Human Services Committee

Dated: March 25, 2015

**Main Motion**

Motion: by: Honorable Nelson BeGaye

Seconded by: Honorable Norman M. Begay

Vote: 3 in favor: 0 Opposed and 0 Abstain

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

**FIRST YEAR 2015**

**COMMITTEE REPORT**

Mr. Speaker,

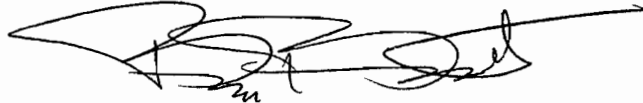
The **RESOURCES AND DEVELOPMENT COMMITTEE** to whom has been assigned:

**Legislation # 0084-15:** An Action Relating to Health, Education and Human Services, Resources and Development, Budget and Finance, Law and Order and Naabik'Iyati and Navajo Nation Council; Amending Navajo Nation Code Title 24 by Enacting the Alcohol Tax. *Honorable Edmund Yazzie*

Has had it under consideration and report the same with a **DO PASS** with the no amendment

and thereafter referred to Budget and Finance Committee.

Respectfully submitted,



Benjamin Bennett, Vice - Chairperson  
Resources and Development Committee of  
the 23<sup>rd</sup> Navajo Nation Council

Date: April 7<sup>th</sup>, 2015  
Motion: Davis Filfred  
Second: Leonard Pete  
Vote: 3-1

**23<sup>rd</sup> NAVAJO NATION COUNCIL**

First Year 2015

Mr. Speaker:

The **BUDGET & FINANCE COMMITTEE** to whom has been assigned

**NAVAJO LEGISLATIVE BILL # 0084-15:**

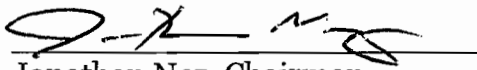
An Act Relating to Health, Education and Human Services, Resources and Development, Budget and Finance, Law and Order, Naabikiyati and Navajo Nation Council; Amending Navajo Nation Code Title 24 by Enacting the Alcohol Tax *Sponsored by Edmund Yazzie, Council Delegate*

has had it under consideration and reports the same with the recommendation that It **Do Pass** without amendment.

*[Read into the record 13 April 2015; no second to the motion to consider by the Committee; no action taken.]*

And therefore, referred to the **LAW AND ORDER** Committee

Respectfully submitted,

  
Jonathan Nez, Chairman

Adopted: \_\_\_\_\_  
Legislative Advisor

Not Adopted:   
Legislative Advisor

**13 April 2015**

The vote was in favor opposed

Excused:

Absent:

LAW AND ORDER COMMITTEE  
23<sup>RD</sup> NAVAJO NATION COUNCIL

FIRST YEAR 2015

COMMITTEE REPORT

Mr. Speaker,

The LAW AND ORDER COMMITTEE to whom has been assigned:

**Legislation No. 0084-15:** An action relating to Health, Education and Human Services, Resources and Development, Budget and Finance, Law and Order, Naabik'iyati' and Navajo Nation Council; Amending Navajo Nation Code Title 24 by Enacting the Alcohol Tax - Sponsor: Honorable Edmund Yazzie

Has had it under consideration and reports the matter as **DO PASS** with amendments:

**Section 1204 Legal Incidence and Responsibility for Payment**

On page 3 of 7, lines 14 and 15, delete language:

~~The tax imposed by this Chapter is a direct tax on the retailers and distributors of commercially processed and/or manufactured alcohol products~~

Insert new language:

There is hereby levied and imposed by this Chapter for each period a tax upon the first sale by any retailer or distributor of Alcohol products.

**Section 1205 Rate of Tax**

On page 3 of 7, insert language on line 16:

Adding a subpart C that reads: "Alcohol Tax shall not be administered in accordance with the Junk Food Tax"

**Section 1206 Administration**

On page 3 of 7, line 30 changing ~~"taxes collected"~~ to "gross sales"

**Section 1207 Definitions Part D "Office"**

On page 4 of 7, line 17, delete:

~~"Office" shall mean the taxation department or any employee of the department exercising authority lawfully delegated to that employee,~~ insert new language:

"Office of the Navajo Tax Commission" is located within the Navajo Nation Executive Branch and is responsible for the administration of the Navajo Tax Code. "Commission" means the Navajo Tax Commission.

**Section 1207 Definitions Part D "Office"**

d. "Office of the Navajo Tax Commission" is located within the Navajo Nation Executive Branch and is responsible for the administration of the Navajo Tax Code. "Commission" means the Navajo Tax Commission. This will become a new d.

On page 4 of 7, line 19, delete the whole paragraph:

~~"Person" shall mean any organization, whether a sole proprietorship, partnership, joint venture, trust, estate, unincorporated association, company, corporation, or government (other than the Navajo Nation government), or any part, division, or agency of any of the foregoing, and an individual or group of individuals;~~

Insert new language to read as follows:

"Person" as defined in the Uniform Tax Administration Statute, shall include any organization, whether a sole proprietorship, partnership, joint venture, trust, estate, unicorporated association, company, corporation, or government (other than the Navajo Nation government), or any part, division, or agency of any of the foregoing, and an individual or group of individuals. In accordance with §1208 of this Chapter, 'Person' for purposes of the Alcohol Tax shall include the government of the Navajo Nation, or political subdivisions or enterprises thereof. This will become a new f. and subsequently it will change the letters.

On page 5 of 7, line 5, insert new **Section 1209 Exemptions and Exclusions:**

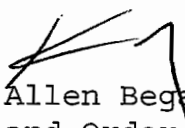
- A. The tax imposed by this Chapter does not apply to gross receipts generated directly by the following:
1. Sales for resale;
  2. Sales related to agricultural, farming, or livestock activities conducted within the Navajo Nation;
  3. Sales, other than sales from an unrelated trade or business as defined in §§ 511-513 of the Internal Revenue Code, by any person operating exclusively for non-profit or charitable purposes, and recognized as such pursuant to § 501(C)(3) and 501(C)(19) of the United State Internal Revenue Code at the time of sale;



4. Sales by hospitals and health-care organizations or facilities, such as nursing care institutions, residential care and mental health facilities, senior citizen care facilities or retirement homes, kidney dialysis facilities and blood banks, or other facilities which provide medical care and services;
- B. Nothing in this Chapter shall be construed as imposing directly upon the United States a tax which is prohibited by federal law.

And thereafter the matter will be referred to the **NAABIK' IYATI' COMMITTEE**.

Respectfully submitted,

  
Kee Allen Begay, Jr., Chair Pro Temp  
Law and Order Committee  
23<sup>rd</sup> Navajo Nation Council

Date: May 11, 2015  
Motion: Honorable Jonathan Perry  
Second: Honorable Kee Allen Begay, Jr.  
Vote: 3-0

**NOTE: A quorum of 3 members were present**

# NAABIK'ÍYÁTI' COMMITTEE REPORT

23<sup>rd</sup> NAVAJO NATION COUNCIL---FIRST YEAR 2015

## LEGISLATION 0084-15

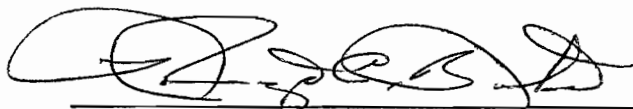
Introduced by the Honorable Edmund Yazzie

An action relating to Health, Education and Human Services, Resources and Development, Budget and Finance, Law and Order, Naabik'íyáti' and Navajo Nation Council; Amending Navajo Nation Code Title 24 by Enacting the Alcohol Tax

TO THE 23<sup>RD</sup> NAVAJO NATION COUNCIL:

The Naabik'íyáti Committee, to whom has been referred Legislation 0084-15, has had it under consideration and reports a **REFERRAL MOTION** with **no amendments**. The Naabik'íyáti Committee, who noted that the Budget and Finance Committee is the oversight committee on tax issues, has referred Legislation 0084-15 back to the Budget and Finance Committee to resolve the No Action Status memorialized on its Committee Report dated April 13, 2015

Thence **REFERRED BACK TO THE BUDGET AND FINANCE COMMITTEE** on this 14<sup>th</sup> Day of May, 2015.



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

Motion: Honorable Otto Tso  
Second: Honorable Lee Jack, Sr.  
Vote:

### REFERRAL ACTION

Motion: Honorable Alton Joe Shepherd  
Second: Honorable Walter Phelps  
Vote: 9-6-0

**23<sup>rd</sup> NAVAJO NATION COUNCIL**

First Year 2015

Mr. Speaker:

The **BUDGET & FINANCE COMMITTEE** to whom has been assigned

**NAVAJO LEGISLATIVE BILL # 0084-15:**

An Act Relating to Health, Education and Human Services, Resources and Development, Budget and Finance, Law and Order, Naabikiyati and Navajo Nation Council; Amending Navajo Nation Code Title 24 by Enacting the Alcohol Tax *Sponsored by Edmund Yazzie, Council Delegate*

has had it under consideration and reports the same with the recommendation that It **Do Not Pass** without amendment.

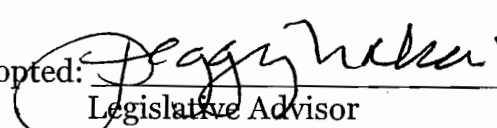
And therefore, referred to the **NAABIKIYATI** Committee

Respectfully submitted,



Dwight Witherspoon, Vice Chairman

Adopted: \_\_\_\_\_  
Legislative Advisor

Not Adopted:  \_\_\_\_\_  
Legislative Advisor

**26 May 2015**

The vote was **1** in favor **3** opposed



## NAABIK'ÍYÁTI' COMMITTEE REPORT

23<sup>rd</sup> NAVAJO NATION COUNCIL---FIRST YEAR 2015

### LEGISLATION 0084-15

Introduced by the Honorable Edmund Yazzie

An action relating to Health, Education and Human Services, Resources and Development, Budget and Finance, Law and Order, Naabik'íyáti' and Navajo Nation Council; Amending Navajo Nation Code Title 24 by Enacting the Alcohol Tax

#### TO THE HONORABLE MEMBERS OF THE NAVAJO NATION COUNCIL:

The Naabik'íyáti Committee, to whom has been referred Legislation 0084-15, has had it under consideration and reports a **DO PASS** recommendation with **no amendments**.

Thence **REFERRED TO THE 23<sup>rd</sup> NAVAJO NATION COUNCIL** on this 28<sup>th</sup> Day of May, 2015.

  
\_\_\_\_\_  
Honorable Leonard Tsosie, Chairperson Pro Tem  
NAABIK'ÍYÁTI' COMMITTEE

Motion: Honorable Otto Tso  
Second: Honorable Lee Jack, Sr.  
Vote: 9-3-0 (2 N.N.C. §700(D) applied. Two members from each standing committee voted.)