

**RESOLUTION OF THE
NAVAJO NATION COUNCIL**

21st NAVAJO NATION COUNCIL - Fourth Year, 2010

AN ACT

**RELATING TO GOVERNMENT SERVICES AND ECONOMIC DEVELOPMENT;
AMENDING THE PLAN OF OPERATION FOR THE NAVAJO TRIBAL UTILITY
AUTHORITY AT 21 N.N.C. §7(B) (12); INCREASING THE AUTHORITY'S
TOTAL DEBT LIMITATION FROM \$200 MILLION TO \$500 MILLION**

BE IT ENACTED:

Section One. Findings

A. The Navajo Tribal Utility Authority plans to make significant investments intended to improve and expand NTUA's utility facilities as well as acquire new facilities to serve customers in Utah and western portions of the Navajo Nation.

B. The Navajo Tribal Utility Authority's current outstanding borrowing plus new borrowing will easily exceed \$200 million, which is NTUA's current borrowing limit.

C. The Navajo Tribal Utility Authority wishes to increase its borrowing authority to \$500 million.

Section Two. Amending Title 21 of the Navajo nation Code, 21 N.N.C. §7(B) (12)

The Navajo Nation hereby amends Title 21 of the Navajo Nation code, as follows:

NAVAJO NATION CODE ANNOTATED
TITLE 21. PUBLIC UTILITIES AND COMMUNICATIONS

CHAPTER 1. NAVAJO TRIBAL UTILITY AUTHORITY
SUBCHAPTER 1. GENERALLY

§ 7. Management Board; purpose; duties and powers

B. Enumerated powers. Subject to Navajo Nation Council approval where required, and applicable Navajo Nation and federal laws and regulations, and solely in furtherance of the limited purposes set forth in 21 N.N.C. § 5, the Management Board shall have the following powers:

12. To borrow funds. To borrow money, make and issue notes, obligations and bonds of the Authority for any of its purposes and to secure payment thereof by pledge of, or lien on, all or any of its fixtures, personalty, revenues, income and contracts. The total outstanding long-term debt of the authority at any one time shall not exceed ~~two~~ five hundred million dollars (\$25,000,000).

Section Three. Effective Date

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

Section Four. Codification

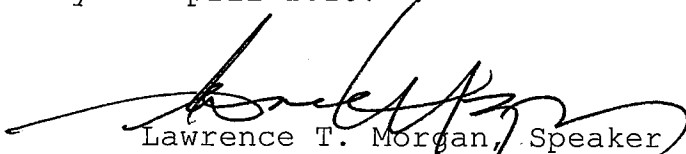
The provisions of this Act which amend sections of the Navajo Nation Code shall be codified by the Office of Legislative Counsel.

Section Five. Savings Clause

Should any provision of this Act be determined invalid by the Navajo Nation Supreme Court, or the District Courts of the Navajo Nation, without appeal to the Navajo Nation Supreme Court, those portions of this Act which are not determined invalid shall remain the law of the Navajo Nation.

CERTIFICATION

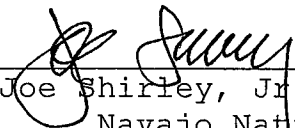
I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 70 in favor and 5 opposed, this 21st day of April 2010.


Lawrence T. Morgan, Speaker
Navajo Nation Council
04 April
Date

Motion: Raymond Joe
Second: Nelson Begaye

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 _____ day of MAY 14 2010 2010.



Dr. Joe Shirley, Jr., President
Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. \$1005 (C) (11), this _____ day of _____ 2010 for the reason(s) expressed in the attached letter to the Speaker.

Dr. Joe Shirley, Jr., President
Navajo Nation

CJY-52-02

RESOLUTION OF THE
NAVAJO NATION COUNCIL

Increasing the Debt Limitation of the Navajo Tribal Utility Authority
Limitation From \$75 Million to \$200 Million

WHEREAS:

1. The Navajo Nation Council is the governing body of the Navajo Nation, 2 N.N.C. §102(A); and
2. The current debt limitation of the Navajo Tribal Utility Authority ("NTUA") is \$75 Million, pursuant to its Plan of Operation, 21 N.N.C. §7(B)(12); and
3. The NTUA Management Board has adopted a Four Year Construction Work Plan (2000-2004) for the construction of electric distribution facilities and a new NTUA Headquarters Building. A Summary of System Improvements describing the various construction projects for the next four years is attached hereto as Exhibit "A"; and
4. As the attached Summary of System Improvements indicates, NTUA will require up to \$36 Million in loan funding to carry out its Four Year Construction Work Plan. A loan in this amount will cause NTUA's total outstanding indebtedness to exceed its present debt limitation; and
5. The Government Services Committee of the Navajo Nation Council, the Budget and Finance Committee of the Navajo Nation Council, the Resources Committee of the Navajo Nation Council, the Transportation and Community Development Committee of the Navajo Nation Council and the Judiciary Committee of the Navajo Nation Council, in reviewing comprehensive amendments to NTUA's plan of operation, all agree that NTUA's debt limitation should be increased from \$75 Million to \$150 Million or \$200 Million, pursuant to Resolutions GSCN-68-00, BFMA-30-01, RCJA-02-01, TCDCD-113-00 and JCJA-1-01, respectively; and
6. The Rural Utilities Service ("RUS"), a program of the United States Department of Agriculture, is encouraging NTUA to submit its \$36 Million loan application as soon as possible to improve NTUA's chances of receiving loan funding out of the current federal appropriations for RUS loans. RUS has indicated that should NTUA continue to delay submitting its loan application, NTUA may have to wait for the next funding cycle for loan consideration; and

CJY-52-02

7. It is in the best interests of NTUA, the Navajo Nation, and the residents of the Navajo Reservation that NTUA's debt limitation be increased to \$200 Million to authorize additional borrowing so as to implement NTUA's Four Year Construction Work Plan that will require loan funding in excess of NTUA's current debt limitation.

NOW THEREFORE BE IT RESOLVED THAT:

The Navajo Nation Council hereby amends the Plan of Operation of the Navajo Tribal Utility Authority, at 21 N.N.C. 57(B)(12) as follows:

- 12. To borrow funds. To borrow money, make and issue notes, obligations and bonds of the Authority for any of its purposes and to secure payment thereof by pledge of, or lien on, all or any of its fixtures, personalty, revenue, income or contracts. The total outstanding long-term debt of the Authority at any one-time shall not exceed ~~\$75,000,000.00~~ \$200,000,000.00.

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 51 in favor, 6 opposed and 2 abstained, this 17th day of July 2002.

Edward T. Begay

Edward T. Begay, Speaker
Navajo Nation Council
July 18, 2002
Date

Motion: Edward V. Jim
Second: Leo Gishie



NAVAJO TRIBAL UTILITY AUTHORITY
AN ENTERPRISE OF THE NAVAJO NATION

January 6, 2010

Honorable President Joe Shirley, Jr.
The Navajo Nation
P.O. Box 9000
Window Rock, AZ 86515

Re: Navajo Tribal Utility Authority
Administrative Review of Proposed Legislation
Amending NTUA's Plan of Operation

Dear Honorable President Shirley:

Enclosed for administrative review are two pieces of draft legislation seeking to amend the Plan of Operation of the Navajo Tribal Utility Authority (NTUA) such that (1) its Management Board would be authorized to grant limited waivers of NTUA's sovereign immunity and (2) NTUA's borrowing authority will be increased.

With respect to several projects that NTUA has undertaken and plans to undertake, including the Big Boquillas Wind Project, other wind generation projects, its New Markets Tax Credits financings, among numerous other day-to-day business transactions, NTUA has been requested by counterparties to seek a waiver of its sovereign immunity for enforcement of contractual obligations.

NTUA has had to forego valuable business opportunities in the past due to its inability to quickly obtain a sovereign immunity waiver. The NTUA Management Board is well aware of the situation and has therefore approved a Board Resolution, NTUA-26-09, requesting amendment of the NTUA Plan of Operation to authorize the Management Board to grant limited waivers of NTUA's sovereign immunity on case-by-case basis.


NTUA also plans to make significant investments intended to improve and expand NTUA's utility facilities as well as acquire new facilities to serve customers in Utah and the Western portions of the Navajo Reservation. NTUA's current outstanding borrowing plus new borrowing will easily exceed \$200 million, which is NTUA's current borrowing authority. NTUA wishes to increase its borrowing authority to \$500 million.

Honorable President Joe Shirley, Jr.
Page Two
January 6, 2010

Expedited review by the Executive Branch of the Navajo Nation is appreciated. NTUA would like to seek approval of the enclosed legislation at the 2010 Winter Session of the Navajo Nation Council.

Sincerely,

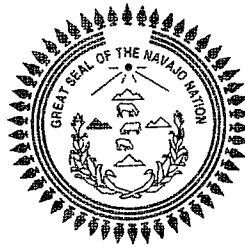
NAVAJO TRIBAL UTILITY AUTHORITY


Walter W. Haase, P.E.
General Manager

WWH/mar

Enclosure

xc: Sidney Bob Dietz II, NTUA Management Board Chairperson
Warren Denetsosie, NTUA Legal Counsel
Bernice Tsosie, Government Liaison



21st Navajo Nation Council - Third Year

Mr. Speaker

The **GOVERNMENT SERVICES COMMITTEE** to whom has been assigned

NAVAJO NATION LEGISLATIVE BILL #0033-10

Relating Government Services and Economic Development; Amending the Plan of Operation for the Navajo Tribal Utility Authority at 21 N.N.C. § 7 (B) (12); Increasing the Authority's Total Debt Limitation from \$200 Million to \$500 Million

Has had it under consideration and reports the same with the following recommendation that it **DO PASS** with no amendments.

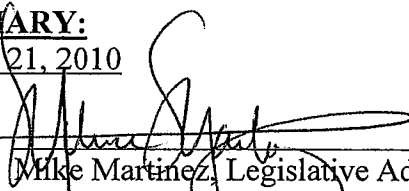
And therefore referred to **ECONOMIC DEVELOPMENT COMMITTEE** respectfully submitted

A handwritten signature in black ink, appearing to read "Ervin M. Keeswood, Sr.", written over a horizontal line.

Ervin M. Keeswood, Sr, Chairman
GOVERNMENT SERVICES COMMITTEE

GSC SUMMARY:

Date: January 21, 2010

Adopted: 
Mike Martinez, Legislative Advisor

Main Motion: Charles Damon 2nd Leonard Teller

Vote 5 - 0

ECONOMIC DEVELOPMENT COMMITTEE REPORT
21st NAVAJO NATION COUNCIL – Fourth Year, 2010

Mr. Speaker:

The **ECONOMIC DEVELOPMENT COMMITTEE**, to whom has been assigned:

LEGISLATION NO. 0033-10

Introduced by Hon. Roy Laughter

AN ACTION

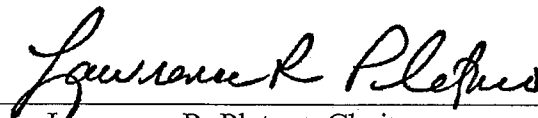
Relating to Government Services and Economic Development; Amending the Plan of Operation for the Navajo Tribal Utility Authority at 21 NNC §7(B) (12); Increasing the Authority's Total Debt Limitation from \$200 Million to \$500 Million

has had it under consideration and reports the same with a **DO PASS** with **NO AMENDMENTS**.

And thence referred to the **Ethics and Rules Committee**.

CERTIFICATION

I, hereby certify that the foregoing legislation was duly considered by the Economic Development Committee of the Navajo Nation Council at a duly called meeting at St. Michaels, Navajo Nation (Arizona), at which a quorum was present and that the same was passed with a vote of **6 in favor and 0 opposed** this 3rd day of February 2010.



Mr. Lawrence R. Platero, Chairperson
Economic Development Committee *

MOTION: Tom LaPahe
SECOND: GloJean Todacheene

21st Navajo Nation Council

Fourth Year 2010

Mr. Speaker,

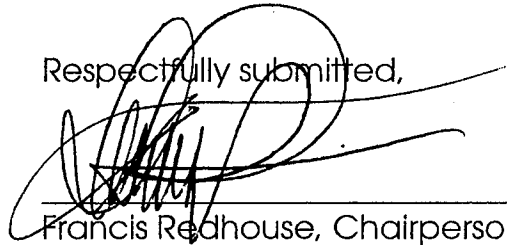
The **ETHIC AND RULES COMMITTEE**, to whom has been assigned

NAVAJO LEGISLATIVE BILL 0033-10

Has had it under consideration and reports that there was a **DO PASS** with **NO AMENDMENTS**.

And therefore referred to the **21st NAVAJO NATION COUNCIL**.

Respectfully submitted,



Francis Redhouse, Chairperson

Adopted:  _____
Advisor

Not Adopted: _____
Advisor

Date: **February 19, 2010**

The vote was 6 in favor and 0 opposed

Excused:

Absent: