LEGISLATIVE SUMMARY SHEET

Tracking No. 0210-20

DATE: August 24, 2020

TITLE OF RESOLUTION: AN ACT TO RELATING HEALTH, EDUCATION AND HUMAN SERVICES, LAW AND ORDER, NAABIK'ÍYÁTÍ AND THE NAVAJO NATION COUNCIL; AMENDING TITLE 17, LAW AND ORDER CODE, BY ENACTING AS AN OFFENSE, SECTION 378, "VIOLATION OF AN EMERGENCY ORDER OR ACTION"

PURPOSE: The proposed legislation, if enacted, will amend the Navajo Nation Code at Title 17, Law and Order Code, to include as an offense, "Violation of an Emergency Order or Action."

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: J Johnson
Website Posting Time/Date: 5:12pm 08-25-20
Posting End Date: 08-30-20
Eligible for Action: 08-31-20

Health Education & Human Services Committee
Thence
Law & Order Committee
Thence
Naabik'íyáti' Committee
Thence
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION

24th NAVAJO NATION COUNCIL -- Second Year, 2020

INTRODUCED BY

(Prime Sponsor)

TRACKING NO. 0210-20

AN ACT

TO RELATING HEALTH, EDUCATION AND HUMAN SERVICES, LAW AND ORDER, NAABIK'ÍYÁTÍ AND THE NAVAJO NATION COUNCIL; AMENDING TITLE 17, LAW AND ORDER CODE, BY ENACTING AS AN OFFENSE, SECTION 378, "VIOLATION OF AN EMERGENCY ORDER OR ACTION"

BE IT ENACTED:

SECTION ONE. AUTHORITY

A. The Health, Education and Human Services Committee is a standing committee of the Navajo Nation Council. The committee is empowered to provide legislative oversight on matters involving health and social services, oversee Navajo Nation policies and priorities to optimize the delivery of social services and health services to the Navajo people, and review and recommend resolutions relating to social services and health. See 2 N.N.C. §§400 (C)(1) and (4) and 401 (B)(6)(a).

B. The Law and Order Committee is a standing committee of the Navajo Nation Council. 2 N.N.C. § 600 (A). The Law and Order Committee has oversight over the Division of Public Safety and its programs. 2 N.N.C. § 601(C)(1). Purposes of the committee include enabling the Navajo Nation "to more effectively provide efficient public safety services on the Navajo Nation." 2 N.N.C. § 600(C)(6).

C. Pursuant to 2 N.N.C. §164(A)(9), "a proposed resolution that requires final action by the Navajo Nation Council [must] be assigned to standing committee(s) having authority over the subject matter at issue and the Naabik'íyáti Committee."

D. The Navajo Nation Council, pursuant to 2 N.N.C. §102(A), is the "governing body of the Navajo Nation ...." A primary role of Navajo Nation Council delegates is policy-making.

SECTION TWO. FINDINGS

A. COVID-19 is a dangerous and extremely contagious respiratory virus. The virus is pandemic and has reached the Navajo Nation. COVID-19 is spreading at an alarming rate within the Navajo Nation; as of July 15, 2020, the Navajo Nation has reported 8,370 cases of COVID-19 and 406 related deaths.

B. The World Health Organization declared a Public Health Emergency of International Concern on January 30, 2020; the United States Department of Health and Human Services declared a Public Health Emergency related to the COVID-19 outbreak on January 31, 2020; and the World Health Organization officially declared a pandemic due to COVID-19 on March 11, 2020.

C. On March 11, 2020, the Navajo Nation Commission on Emergency Management, with the concurrence of the Navajo Nation President and Vice President, declared a Public Health State of Emergency on the Navajo Nation due to the presence of COVID-19 in areas surrounding the Navajo Nation. Resolution No. CEM 20-03-11. The President and Commission have issued other Public Health Emergency Orders: including: Order No. 2020-001 dated March 18, 2020 (declaring the outbreak of COVID-19 and limiting mass gatherings); Order No. 2020-002 dated March 19, 2020 (quarantining the Chilchinbeto Community); Order No. 2020-003 dated March 20, 2020 (ordering individuals living on the Navajo Nation to stay home and shelter in place except for essential activities, prohibiting visitors to the Navajo Nation, and closing all businesses on the Navajo Nation except essential businesses); Order No. 2020-004 dated March 29, 2020 (implementing a daily curfew from 8:00 p.m. to 5:00 a.m. for all Navajo Nation residents, extending the shelter in place order, and further limiting public gatherings); Order No. 2020-005 dated April 5, 2020 (implementing a

57-hour weekend curfew on April 10-13); Order No. 2020-006 dated April 16, 2020 (extending the weekend curfew for April 17-20 and April 24-27, and closing Navajo Nation essential businesses during curfew hours); Order No. 2020-007 (requiring face masks in public); and Order No. 2020-008 dated April 29, 2020 (extending the weekend curfew to May 11, 2020). The Navajo Nation Office of the President and Vice President issued Executive Order 002-20 on March 31, 2020 (closing all Navajo Nation offices except essential personnel through April 21); and Executive Order 003-20 on April 21, 2020 (extending the closure order to May 17, 2020).

D. There likely will be other orders issued as the risk of the spread of COVID-19 continues.

E. As COVID-19 remains a major health concern for the Navajo Nation, it is in the best interest of the Navajo Nation to amend Title 17 of the Navajo Nation Code in regards to violations of Emergency Orders and Actions and enforcement thereof.

SECTION THREE. AMENDMENT TO TITLE 17

The Navajo Nation amends the Title 17, the Law and Order Code of the Navajo Nation as follows:

TITLE 17. LAW AND ORDER

Chapter 3. Offenses

Subchapter 8. Obstruction of Navajo Nation Administration

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§ 378. Violation of an Emergency Order or Action

A. Offense. A person commits Violation of an Emergency Order or Action if he or she recklessly, knowingly, intentionally or negligently fails to comply with any requirement or prohibition of an Emergency Order or Action

B. For the purposes of this offense an Emergency Order includes any order which mandates or prohibits certain activities by individuals, and which is issued by the Navajo Department of Health, Navajo Commission on Emergency Management, the President of the Navajo Nation or Chief Justice of the Judicial

Branch during a state of emergency as declared by the Navajo Nation President or his or her designee.

C. For the purposes of this offense an Emergency Action includes any authorized actions taken by the Navajo Council or Navajo President during a state of emergency as declared by the Navajo Nation President or his or her designee.

D. Lack of notice or failure to receive notice of the Declaration of Emergency or Emergency Order or Action shall not be a defense.

E. Sentence.

1. Any person found guilty of a first offense shall be ordered to pay a fine of $500.

2. Any person found guilty of a second offense during the same Declaration of Emergency shall be ordered to pay a fine of $1000.

3. Any person found guilty of a third or subsequent offense during the same Declaration of Emergency shall be ordered to pay a fine of $1000 and to a term of imprisonment of 30 days.

4. When the offender is a corporation, partnership, unincorporated association, government or government authority, or an individual registered to do business within the Navajo Nation, the sentence may include suspension or cancellation of business registration or other business authority issued by the Navajo Nation pursuant to 17 N.N.C. §220(C).

F. Sentencing mandatory. The fine amount(s) and imposition of term of incarceration are mandatory, not at the discretion of the Court, and based solely on the first-time or recurrence of the conviction. In addition:

1. No fine imposed for any conviction of this offense may be converted to Community Service Work unless the Court receives evidence that a defendant is unable to pay the fine. Before converting the fine to Community Service Work, in whole or in part, the Court will consider installment payments made by defendant over a reasonable period of time in lieu of the conversion.

2. No portion of any term of incarceration shall be suspended or subject to probation or parole. If a defendant is actively employed at the time of sentencing and provides evidence of such to the Court, the Court may order the defendant to report to the detention center on days off of work until the sentence is served in full. Any deviation from a consecutive 30-day term of incarceration must be detailed in the sentencing order with the specific dates and times the defendant must report to the detention center.

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SECTION FIVE. 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 SIX. 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, the remainder of the Act shall remain the law of the Navajo Nation.

SECTION SEVEN. EFFECTIVE DATE

Amendments enacted herein shall be effective pursuant to 2 N.N.C. § 221(B).

Office of Legislative Counsel
Telephone: (928) 871-7166
Fax # (928) 871-7576

Honorable Seth Damon
Speaker
24th Navajo Nation Council

MEMORANDUM

To : Hon. Eugene Tso, Council Delegate
Navajo Nation Council

Hon. Otto Tso, Delegate
Navajo Nation Council

From : _____
Ron Haven, Attorney
Office of Legislative Counsel

Date : August 24, 2020

Re : AN ACT TO RELATING HEALTH, EDUCATION AND HUMAN SERVICES, LAW AND ORDER, NAABIK'ÍYÁTÍ AND THE NAVAJO NATION COUNCIL; AMENDING TITLE 17, LAW AND ORDER CODE, BY ENACTING AS AN OFFENSE, SECTION 378, "VIOLATION OF AN EMERGENCY ORDER OR ACTION"

As requested, I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. The resolution drafted is legally sufficient, although, as with all legislation, challenges are possible in the courts. You are advised and 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. As you may be aware, the Speaker is authorized to refer this proposed resolution to other committees than those stated in the title.

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

OLC # 20-245-1

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION

LEGISLATION NO: _0210-20__ **SPONSOR:** Eugene Tso

TITLE: An Act To Relating Health, Education And Human Services, Law And Order, Naabik'íyáti' And The Navajo Nation Council; Amending Title 17, Law And Order Code, By Enacting As An Offense, Section 378, "Violation Of An Emergency Order Or Action"

***Date posted*:** August 25, 2020 at 5:12 PM

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) 871-7586

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.: 0210-20

SPONSOR: Honorable Eugene Tso

TITLE: An Act To Relating Health, Education And Human Services, Law And Order, Naabik'íyáti' And The Navajo Nation Council; Amending Title 17, Law And Order Code, By Enacting As An Offense, Section 378, "Violation Of An Emergency Order Or Action"

Posted: August 25, 2020 at 5:12 PM

5 DAY Comment Period Ended: August 30, 2020

Digital Comments received:

Comments Supporting	**1) Barbara J. Morgan**
Comments Opposing	**1) Al Henderson**
Inconclusive Comments	***None***

J Johnson
Legislative Tracking Secretary
Office of Legislative Services

08/31/20 8:40Am
Date/Time

Legislation # 0210-20

bj goodluck <bjmgoodluck@gmail.com>

Wed 8/26/2020 10:51 AM

To:comments <comments@navajo-nsn.gov>;

TITLE OF RESOLUTION: AN ACT RELATING TO HEALTH, EDUCATION, AND HUMAN SERVICES, LAW AND ORDER, NAABIK'ÍYÁTI' AND THE NAVAJO NATION COUNCIL; AMENDING TITLE 17, LAW AND ORDER CODE. BY ENACTING AS AN OFFENSE, SECTION 378, "VIOLATION OF AN EMERGENCY ORDER OR ACTION."
This law effects essential businesses on the Navajo Nation and so the hemp farming must be shut down. It only essential to Dineh [sic] Benally and his foreign business partners. If you can make laws like this, enforce them. All known bootleggers/drug dealers should be arrested and jailed.
I support this resolution.

Barbara J Morgan
USPO Box
Shiprock, NM 87420

WARNING: External email. Please verify sender before opening attachments or clicking on links.

Legislation 0210-02

Al Henderson <ahec01@gmail.com>

Thu 8/27/2020 6:58 AM

To:comments <comments@navajo-nsn.gov>;

Cc:Jeff Begay <rezbldr@gmail.com>;

Honorable Council Delegates, I hereby submit my opposition to Legislation 0210-02 because more laws to restrict mobility, no matter what the issue, will not deter people -in this case the Navajo people. Such a law can only lead them to ignoring the law as they have been conditioned to such behavior. The judicial system, as I understand, is already overloaded with cases and law enforcement officers are stretched to the limit. These two issues must be solved first.

My recommendation to prevent the spread of adverse events that are disastrous and caused by the "acts of God", as lawyers often say, is to upscale resources for NN wide community education on the danger and remedy for such events as the coronavirus-19.

Thank you

WARNING: External email. Please verify sender before opening attachments or clicking on links.

Committee Report

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

LEGISLATION NO. 0210-20

AN ACT RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, LAW AND ORDER, NAABIK'IYATI'AND NAVAJO NATION COUNCIL; AMENDING TITLE 17, LAW AND ORDER CODE, BY ENACTING AS AN OFFENSE, SECTION 378, "VIOLATION OF AN EMERGENCY ORDER OF ACTION"

(Note: Eligible for Committee Action August 31, 2020)

Sponsor: Honorable Eugene Tso

Has had under consideration and report the same with the recommendation that Legislation 0210-20 **DID NOT PASS** with No Amendment and No Directive; and therefore referred the same to the **LAW AND ORDER COMMITTEE OF THE NAVAJO NATION COUNCIL**

Respectfully Submitted,

Daniel E. Tso, Chairperson
Health, Education and Human Services Committee

September 02, 2020 - Main Motion
Motion by: Honorable Edison J. Wauneka
Seconded by: Honorable Paul Begay, Jr.
Vote: 0 in favor; 4 Opposed; Chairperson Not Voting
Yeas: none
Nays: Paul Begay, Jr.; Carl R. Slater; Pernell Halona; Edison J. Wauneka
Not Voting: Charlaine Tso
Absent (excused): all present

HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE
Special Meeting
September 02, 2020

Roll Call
Vote Tally Sheet

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

LEGISLATION NO. 0210-20

AN ACT RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, LAW AND ORDER, NAABIK'IYATI'AND NAVAJO NATION COUNCIL; AMENDING TITLE 17, LAW AND ORDER CODE, BY ENACTING AS AN OFFENSE, SECTION 378, "VIOLATION OF AN EMERGENCY ORDER OF ACTION"

(Note: Eligible for Committee Action August 31, 2020)

Sponsor: Honorable Eugene Tso

Has had under consideration and report the same with the recommendation that Legislation 0210-20 **DID NOT PASS** with No Amendment and No Directive; and therefore referred the same to the **LAW AND ORDER COMMITTEE OF THE NAVAJO NATION COUNCIL**

September 02, 2020 - Main Motion
Motion by: Honorable Edison J. Wauneka
Seconded by: Honorable Paul Begay, Jr.
Vote: 0 in favor; 4 Opposed; Chairperson Not Voting
Yeas: none
Nays: Paul Begay, Jr.; Carl R. Slater; Pernell Halona; Edison J. Wauneka
Not Voting: Charlaine Tso
Absent (excused): all present

Daniel Tso, Chairperson
Health, Education and Human Services Committee

Beverly Martinez, Legislative Advisor
Health, Education and Human Services Committee

LAW AND ORDER COMMITTEE
24TH NAVAJO NATION COUNCIL

SECOND YEAR 2020

COMMITTEE REPORT

Mr. Speaker,

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

Legislation No. 0210-20: An Act Relating to Health, Education and Human Services, Law and Order, Naabik'iyati' and the Navajo Nation Council; Amending Title 17, Law and Oder Code, by Enacting as an Offense, Section 378. "Violation of an Emergency Order or Action" – *Sponsor: Honorable Eugene Tso*

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

And thereafter referred to Naabik'iyati' Committee

Respectfully submitted,

Otto Tso, Pro Tem Chairperson
Law and Order Committee
24th Navajo Nation Council

Date: September 08, 2020

Main Motion: Honorable Eugenia Charles-Newton
Second : Honorable Vince James
Vote : 3-0-2 (Chairperson not voting)

LAW AND ORDER COMMITTEE
Special Meeting
September 08, 2020

Legislation No. 0210-20: An Act Relating to Health, Education and Human Services, Law and Order, Naabik'iyati' and the Navajo Nation Council; Amending Title 17, Law and Oder Code, by Enacting as an Offense, Section 378. "Violation of an Emergency Order or Action" – *Sponsor: Honorable Eugene Tso*

VOTE TALLY SHEET:

Motion: Eugenia Charles-Newton Second: Vince James Vote: 3-0-2

Yea: Eugenia Charles-Newton/Vince James/Eugene Tso
Nay:
Not Voting: Otto Tso
Excused:
Absent: Edmund Yazzie

Otto Tso, Pro Tem Chairperson
Law and Order Committee

Laureen Spencer, Legislative Advisor
Office of Legislative Services

24th NAVAJO NATION COUNCIL
NAABIK'ÍYÁTI' COMMITTEE REPORT
Second Year 2020

The **NAABIK'ÍYÁTI' COMMITTEE** to whom has been assigned:

NAVAJO LEGISLATIVE BILL #0210-20

An Act to Relating Health, Education and Human Services, Law and Order, Naabik'íyáti' and the Navajo Nation Council; Amending Title 17, Law and Order Code, by Enacting as an Offense, Section 378, "Violation of an Emergency Order or Action"

Sponsored by: Honorable Eugene Tso

Has had it under consideration and reports the same that the legislation **PASSED AND IS REFERRED TO THE NAVAJO NATION COUNCIL**.

Respectfully Submitted,

Honorable Seth Damon, Chairman
NAABIK'ÍYÁTI' COMMITTEE

17 September 2020

MAIN MOTION
Motioned by: Honorable Eugenia Charles-Newton
Seconded by: Honorable Thomas Walker, Jr.
Vote: 12 in Favor, 08 Opposed (Chairman Damon Not Voting)

NAVAJO NATION

659 9/17/2020

Navajo Nation Naabikiyati Special Meeting 03:08:47 PM

Amd# to Amd#	Legislation 0210-20: Amending	PASSED
MOT Charles-Newton	Title 17, Law and Order Code by	
SEC Walker, T	Enacting as an Offense, Section 378, "Violation of an....	

Yeas : 12 **Nays : 8** **Excused : 0** **Not Voting : 3**

Yea : 12

Begay, E	Charles-Newton	Freeland, M	Tso, E
Begay, K	Crotty	James, V	Walker, T
Brown	Daniels	Nez, R	Yazzie

Nay : 8

Begay, P	Henio, J	Tso, C	Wauneka, E
Halona, P	Slater, C	Tso, D	Yellowhair

Excused : 0

Not Voting : 3

Smith	Stewart, W	Tso, O

Presiding Speaker: Damon