



## 24<sup>th</sup> NAVAJO NATION COUNCIL LEGISLATION CO-SPONSORSHIP WITHDRAWAL

I, HONORABLE SETH DAMON, Co-Sponsor of proposed legislation hereby withdraw my co-sponsorship of the proposed legislation. The legislation tracking number is 0113-20.

CO-SPONSOR SIGNATURE:



DATE:

9/15/2020

## LEGISLATIVE SUMMARY SHEET

Tracking No. 0113-20

**DATE:** April 30, 2020

**TITLE OF RESOLUTION:** PROPOSED NAVAJO NATION COUNCIL RESOLUTION; AN ACT RELATING TO LAW AND ORDER COMMITTEE, NAABIK'ÍYÁTI' COMMITTEE AND THE NAVAJO NATION COUNCIL; ENACTING 17 N.N.C. § 338 EXCESSIVE PRICING DURING A DECLARED STATE OF EMERGENCY

**PURPOSE:** The purpose of this legislation is to enact 17 N.N.C. § Excessive Pricing During a Declared State of Emergency. The description of the offense is stated as:

Upon declaration of a state of emergency by the President of the Navajo Nation, and for 30 days after the cessation of the state of emergency, it is unlawful for any person to intentionally, knowingly or recklessly sell or rent any commodity or rental facility to any person at a price greater than ten percent (10%) above the average price of the same commodity or rental facility for the thirty days immediately preceding the declaration of a state of emergency.

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: 5:05pm 05-07-20  
Posting End Date: 05-12-20  
Eligible for Action: 05-13-20

Law & Order Committee  
Thence  
Naabik'iyáti' Committee  
Thence  
Navajo Nation Council

1 PROPOSED NAVAJO NATION COUNCIL RESOLUTION  
2 24<sup>th</sup> NAVAJO NATION COUNCIL – Second Year, 2020

3  
4 INTRODUCED BY

5  
6 \_\_\_\_\_  
7 (Prime Sponsor)

8  
9 TRACKING NO. 0113-20



10  
11 AN ACT  
12 RELATING TO LAW AND ORDER COMMITTEE, NAABIK'ÍYÁTI' COMMITTEE  
13 AND THE NAVAJO NATION COUNCIL; ENACTING 17 N.N.C. § 338 EXCESSIVE  
14 PRICING DURING A DECLARED STATE OF EMERGENCY

15  
16 BE IT ENACTED:

17  
18 **Section One. Authority**

- 19 A. The Navajo Nation Council is the governing of body of the Navajo Nation.  
20 2 N.N.C. § 102(A).  
21 B. The Navajo Nation Council approves enactments or amendments of positive  
22 law. 2 N.N.C. § 164 (A).  
23 C. The Law and Order Committee is a standing committee of the Navajo  
24 Nation Council. 2 N.N.C. § 600 (A).  
25 D. Pursuant to 2 N.N.C. §164(A)(9), "a proposed resolution that requires final  
26 action by the Navajo Nation Council [must] be assigned to standing  
27 committee(s) having authority over the subject matter at issue and the  
28 Naabik'iyáti Committee."  
29

30 **Section Two. Findings**

- 1 A. The Navajo Nation President issued Executive Order 001-20 declaring a state of  
2 emergency due to COVID-19 on March 13, 2020.
- 3 B. On March 11, 2020, the Emergency Management Commission declared a state  
4 of emergency due to COVID-19. CEM-20-03-11.
- 5 C. The Navajo Nation Council finds that price gouging at a time of the declared  
6 COVID-19 emergency excessively burdens the public in obtaining needed  
7 disaster relief necessities such as food, protective personal equipment,  
8 disinfectant supplies and other supplies.
- 9

10 **Section Three. Enacting Title 17 Section 338, The Excessive Pricing During A**  
11 **Declared State Of Emergency**

12 The Navajo Nation enacts 17 N.N.C. § 338 as follows:

13

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14 **NAVAJO NATION CODE ANNOTATED**  
15 **TITLE 17. LAW AND ORDER**  
16 **CHAPTER 3. OFFENSES**  
17 **SUBCHAPTER 4. THEFT AND RELATED OFFENSES**

18 \*\*\*\*

19 **§338. Excessive pricing during a declared state of emergency**

- 20 A. Definitions. The following definitions are applicable in this Section.
- 21 1. “Average Price” means the average price at which the same or similar  
22 commodity was obtainable within the Navajo Nation and border towns during the  
23 last 30 days immediately prior to the declared state of emergency.
- 24 2. “Commodity” means any goods, services, materials, merchandise, supplies,  
25 equipment, resources, or other articles of commerce, and includes without  
26 imitation all services offered or provided or work performed or offered to be  
27 performed as an occupation or business to consumers and food, water, ice,  
28 pharmaceuticals, emergency supplies, chemicals, household building materials,  
29 and fuel necessary for consumption or use as a direct result of the emergency.
- 30

- 1           3. “Excessive price” means a price for a commodity or rental facility that exceeds  
2           by more than 10% the average price charged for that commodity or rental facility  
3           in the 30-day period immediately preceding declaration of a state of emergency.
- 4           4. “Person” shall include, but not be limited to, natural persons, corporations,  
5           partnerships, incorporated or unincorporated associations, and any other legal  
6           entity.
- 7           5. “Rental Facility” shall include, but not be limited to, any hotel, motel, boarding  
8           house, dwelling house, and self-storage facility offered for rent or lease.

9       B. Offense

- 10          1. Upon declaration of a state of emergency by the President of the Navajo Nation,  
11          and for 30 days after the cessation of the state of emergency, it is unlawful for  
12          any person to intentionally, knowingly or recklessly sell or rent any commodity  
13          or rental facility to any person at a price greater than ten percent (10%) above the  
14          average price of the same commodity or rental facility for the thirty days  
15          immediately preceding the declaration of a state of emergency.
- 16          2. Each instance of charging an excessive price under this Section constitutes a  
17          separate violation. Lack of notice or failure to receive notice of the declaration  
18          of a state of emergency shall not be a defense with respect to any violation of this  
19          Section.

20       C. Defenses

21       It is a defense if the increase in price is substantially attributable to additional costs  
22       that arose within the chain of distribution in connection with the sale of the  
23       commodity or rental facility, and:

- 24          1. The price for the commodity or rental facility does not exceed 10% above the  
25          cost of obtaining the commodity or rental facility; and,
- 26          2. The price for the commodity or rental facility does not exceed 10% above the  
27          person’s customary markup.

28       D. Penalties

- 29          1. Any person convicted of violating this Section shall be ordered to pay a fine of  
30          not less than five hundred (\$500.00) dollars per offense.

1           2. Upon a showing of continuous and knowing or intentional violations, the Court  
2           shall sentence the offender:

3           a. To serve a term of not less than 30 days in jail. A court shall not grant  
4           probation, pardon, parole, commutation, or suspension of sentence or release  
5           on any other basis; and

6           b. To pay a fine of not less than two thousand five hundred (\$2,500) nor more  
7           than five thousand (\$5,000.00) dollars; and

8           c. Order the revocation of any license or certificate authorizing the offender to  
9           engage in business within the Navajo Nation.

10       E. Restitution

11           For any violation of this Section, and in addition to the sentence, the Court shall  
12           require the offender to pay actual damages or nályééh to the injured party.

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14       **Section Four. Codification**

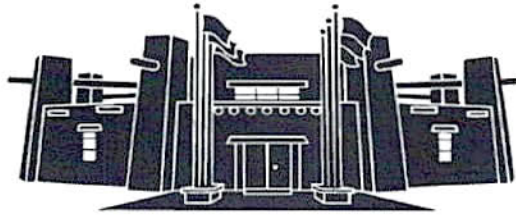
15           The amendments which amend or adopt new sections of the Navajo Nation  
16           Code shall be codified by the Office of Legislative Counsel. The Office of  
17           Legislative Counsel shall incorporate such amended provisions in the next  
18           codification of the Navajo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

20       **Section Five. Savings Clause**

21           Should any provision of the amendments enacted herein be determined invalid  
22           by the Navajo Nation Supreme Court or the District Courts of the Navajo Nation,  
23           without appeal to the Navajo Nation Supreme Court, the remainder of the  
24           amendments shall remain the law of the Navajo Nation.

26       **Section Six. Effective Date**

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



## MEMORANDUM

TO: Honorable Thomas Walker, Jr.  
Cameron, Coalmine Canyon, Birdsprings, Leupp, Tolani Lake Chapters

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

DATE: April 30, 2020

SUBJECT: PROPOSED NAVAJO NATION COUNCIL RESOLUTION; AN ACT RELATING TO LAW AND ORDER COMMITTEE, NAABIK'ÍYÁTI' COMMITTEE AND THE NAVAJO NATION COUNCIL; ENACTING 17 N.N.C. § 338 EXCESSIVE PRICING DURING A DECLARED STATE OF EMERGENCY

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 as drafted is legally sufficient. As with any action of government however, it can be subject to review by the courts in the event of proper challenge.

The Office of Legislative Counsel confirms the appropriate standing committee(s) based on the standing committees powers outlined in 2 N.N.C. §§301, 401, 501, 601 and 701. Nevertheless, "the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration." 2 N.N.C. §164(A)(5).

Please ensure that his particular resolution request is precisely what you want. You are encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction.

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0113-20\_\_

SPONSOR: Thomas Walker, Jr.

TITLE: An Act Relating to Law and Order Committee, Naabik'iyáti' Committee and the Navajo Nation Council; Enacting 17 N.N.C. § 338 Excessive Pricing during a Declared State of Emergency

*Date posted:* May 7, 2020 at 5:05PM

Digital comments may be e-mailed to [comments@navajo-nsn.gov](mailto: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.: 0113-20

SPONSOR: Honorable Thomas Walker, Jr.

TITLE: An Act Relating to Law and Order Committee, Naabik'iyáti' Committee and the Navajo Nation Council; Enacting 17 N.N.C. § 338 Excessive Pricing during a Declared State of Emergency

Posted: May 07, 2020 at 5:05 PM

5 DAY Comment Period Ended: May 12, 2020

Digital Comments received:

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

  
 \_\_\_\_\_  
 Legislative Tracking Secretary  
 Office of Legislative Services

05/13/20 8:30 am

Date/Time

**LAW AND ORDER COMMITTEE  
24<sup>TH</sup> NAVAJO NATION COUNCIL**

**SECOND YEAR 2020**

**COMMITTEE REPORT**

Mr. Speaker,

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

**Legislation No. 0113-20:** An Act Relating to Law and Order Committee, Naabik'iyati' Committee and the Navajo Nation Council; Enacting 17 N.N.C. §338 Excessive Pricing during a Declared State of Emergency – *Sponsor: Honorable Thomas Walker, Jr.*

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,



Eugenia Charles-Newton, Chairwoman  
Law and Order Committee  
24<sup>th</sup> Navajo Nation Council

Date: May 13, 2020

Main Motion: Honorable Vince James

Second : Honorable Eugene Tso

Vote : 3-0-1 (Chairwoman Charles-Newton not voting)

**LAW AND ORDER COMMITTEE**  
**Special Meeting**  
**May 13, 2020**

**Legislation No. 0113-20:** An Act Relating to Law and Order Committee, Naabik'iyati' Committee and the Navajo Nation Council; Enacting 17 N.N.C. § 338 Excessive Pricing during a Declared State of Emergency – *Sponsor: Honorable Thomas Walker, Jr.*

**VOTE TALLY SHEET:**

Motion: Vince James

Second: Eugene Tso

Vote: 3-0-1

Yea: Vince James/Eugene Tso/Otto Tso

Nay:

Not Voting: Eugenia Charles-Newton

Excused: None

Absent: Edmund Yazzie



Eugenia Charles-Newton, Chairwoman  
Law and Order Committee



Laureen Spencer, Legislative Advisor  
Office of Legislative Services

**24<sup>th</sup> NAVAJO NATION COUNCIL  
NAABIK'ÍYÁTI' COMMITTEE REPORT  
Second Year 2020**

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

**NAVAJO LEGISLATIVE BILL #0113-20**

An Act Relating to Law and Order Committee, Naabik'íyáti' Committee and the Navajo Nation Council; Enacting 17 N.N.C. § 338 Excessive Pricing during a Declared State of Emergency

*Sponsored by: Honorable Thomas Walker, Jr.*

*Co-Sponsored by: Honorable Seth Damon*

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

Respectfully Submitted,



*Honorable Seth Damon, Chairman  
NAABIK'ÍYÁTI' COMMITTEE*

**14** May 2020

**MAIN MOTION**

*Motioned by: Honorable Pernell Halona*

*Seconded by: Honorable Eugenia Charles-Newton*

*Vote: 20 in Favor, 00 Opposed (Chairman Damon Not Voting)*

## 24th Navajo Nation Council Naabik'iyáti' Committee Special Meeting Teleconference

ACTION: Legislation 0113-20

MOTION: Pernell Halona

SECOND: Eugenia Charles-Newton

ALL DELEGATES:

	Yea	Nay
1. Elmer P. Begay	✓	
2. Kee Allen Begay, Jr.	✓	
3. Paul Begay	✓	
4. Nathaniel Brown	✓	
5. Eugenia Charles-Newton	✓	
6. Amber Kanazbah Crotty	✓	
7. Herman M. Daniels	✓	
8. Seth Damon		
9. Mark A. Freeland	✓	
10. Pernell Halona	✓	
11. Jamie Henio	✓	
12. Vince R. James	Absent	Absent
13. Rickie Nez	✓	
14. Carl R. Slater	✓	
15. Raymond Smith, Jr.	✓	
16. Wilson C. Stewart, Jr.	✓	
17. Daniel E. Tso	✓	
18. Charlaine Tso	Excused	Excused
19. Eugene Tso	✓	
20. Otto Tso	✓	
21. Thomas Walker, Jr.	✓	
22. Edison J. Wauneka	✓	
23. Edmund Yazzie	Absent	Absent
24. Jimmy Yellowhair	✓	
<b>GRAND TOTAL:</b>	<b>20</b>	<b>0</b>

BY COMMITTEE:

	Yea	Nay	Total
<b>BFC</b>			
Elmer P. Begay			
Nathaniel Brown			
Amber Kanazbah Crotty			
Jamie Henio			
Raymond Smith, Jr.			
Jimmy Yellowhair			
<b>HEHSC</b>			
Paul Begay			
Pernell Halona			
Carl R. Slater			
Charlaine Tso			
Daniel E. Tso			
Edison J. Wauneka			
<b>LOC</b>			
Eugenia Charles-Newton			
Vince R. James			
Eugene Tso			
Otto Tso			
Edmund Yazzie			
<b>RDC</b>			
Kee Allen Begay, Jr.			
Herman M. Daniels			
Mark A. Freeland			
Rickie Nez			
Wilson C. Stewart, Jr.			
Thomas Walker, Jr.			
<b>CHAIRMAN</b>			
Seth Damon <i>(votes Only in a tie)</i>			

CERTIFICATION:

 5/14/2020  
Honorable Speaker Seth Damon Date

GRAND TOTAL: \_\_\_\_\_