

# THE NAVAJO NATION

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JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT

March 27, 2022

Hon. Seth Damon  
Office of the Speaker  
Post Office Box 3390  
Window Rock, AZ 86515

RE: CMA-15-22, *An Action Relating to Resources and Development and Naabik'iyáti' Committees and the Navajo Nation Council; Approving and Adopting the Agreement to Amend Compact Between the Navajo Nation and the State of Arizona ("First Amendment to 2021 Arizona Compact")*

Dear Speaker Damon,

We appreciate the work of the Naabik'iyáti' Gaming Subcommittee, the Navajo Nation Council and the efforts of all involved in negotiating these first amendments to the 2021 Arizona Compact. These amendments clarify certain terms of the 2021 Arizona Compact which will benefit all of the Arizona Tribes by emphasizing jurisdictional parity between the Tribes and facilitate the resolution of on-going litigation that seeks to invalidate the 2021 Arizona Compact.

The preservation of our Navajo Gaming Compact is of utmost importance in maintaining Navajo gaming operations and securing future growth of Navajo gaming under the leadership of the Navajo Nation Gaming Enterprise. Our citizens and other individuals rely on our gaming facilities for employment opportunities to provide for their families and gaming revenue contributes to our Nation's economic development, tourism development, job growth and provides funding for essential services needed by our communities.

Pursuant to the authority vested in the Navajo Nation President, I am signing CMA-15-22 into law.

Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan Nez".

Jonathan Nez, *President*  
THE NAVAJO NATION

A handwritten signature in black ink, appearing to read "Myron Lizer".

Myron Lizer, *Vice President*  
THE NAVAJO NATION

RESOLUTION OF THE  
NAVAJO NATION COUNCIL  
24<sup>th</sup> NAVAJO NATION COUNCIL - FOURTH YEAR, 2022

AN ACTION

RELATING TO THE RESOURCES AND DEVELOPMENT AND NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION COUNCIL; APPROVING AND ADOPTING THE AGREEMENT TO AMEND COMPACT BETWEEN THE NAVAJO NATION AND THE STATE OF ARIZONA ("FIRST AMENDMENT TO 2021 ARIZONA COMPACT")

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Navajo Nation Council is the governing body of the Navajo Nation and intergovernmental agreements must be reviewed and approved by resolution by the appropriate standing committee(s) and the Navajo Nation Council. 2 N.N.C. §§ 102(A) and 164(A) .
- B. The Resources and Development Committee is a standing committee of the Navajo Nation with delegated the authority "to review and recommend to the Naabik'íyáti' Committee Intergovernmental Agreements and agreements between the Navajo Nation and any governmental entity relating to economic development, community development, natural resources, roads and transportation, environmental protection and gaming for efficiency and timely comparison of those projects." 2 N.N.C. § 501(B) (12) .
- C. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council with the delegated authority "[t]o review and continually monitor the programs and activities of federal and state departments and to assist development of such programs designed to serve the Navajo People and the Navajo Nation through intergovernmental relationships between the Navajo Nation and such departments." 2 N.N.C. § 701(A) (7) .
- D. Pursuant to Resolution No. NABIJY-37-19, the Naabik'íyáti' Committee authorized the Naabik'íyáti' Gaming Subcommittee "to negotiate all related issues regarding the separate gaming compacts the Navajo Nation has with the State of Arizona and the State of New Mexico respectively and to address related issues to protect Navajo Gaming," including to "submit to the Naabik'íyáti' Committee for review and approval any and all proposed amendments and/or compacts which are the result of such negotiation." NABIJY-37-19 §§ 3(A) and 3(B) (4) .

## SECTION TWO. FINDINGS

- A. Pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. § 2710 (d)(1)(c), federal law requires the Navajo Nation to enter into a Tribal-State Gaming Compact with a State in order for the Navajo Nation to conduct Class III gaming activities within that State.
- B. On April 10, 2021, the Navajo Nation Council approved and accepted the Navajo Nation - State of Arizona Amended and Restated Gaming Compact ("2021 Arizona Compact") pursuant to Resolution No. CAP-19-21, and on April 15, 2021, the President of the Navajo Nation signed CAP-19-21, and signed and delivered the 2021 Arizona Compact to the Governor of the State of Arizona.
- C. On May 24, 2021, the 2021 Arizona Compact took effect when notice of approval by the Secretary of the Interior was published in the Federal Register (86 FR 27889) in accordance with the Indian Gaming Regulatory Act, 25 U.S.C. § 2710(d)(3)(B).
- D. In the course of implementing the 2021 Arizona Compact, the Tribes and the Governor became aware of a need to clarify certain compact provisions in order to preserve the intent of the parties regarding event wagering.
- E. On August 26, 2021, the Yavapai Prescott Indian Tribe ("YPIT") filed a lawsuit in the Superior Court of Arizona in and for the County of Maricopa, Case No. CV2021-013497, against the State of Arizona, alleging several constitutional causes of action that challenge and seek to invalidate HB 2772, the statute that enabled state-wide off reservation event wagering within Arizona ("YPIT Litigation").
- F. Under the direction of the Naabik'íyáti' Gaming Subcommittee and with the involvement of the Navajo Nation Gaming Enterprise and the Navajo Nation Department of Justice, the Navajo Nation has negotiated the First Amendment to 2021 Arizona Compact, to clarify the intent of the 2021 Arizona Compact parties relating to event wagering and to facilitate settlement of the YPIT Litigation. The First Amendment to 2021 Arizona Compact is attached as **Exhibit A** (the Navajo Nation Attorney General has deemed this document confidential and not subject to disclosure pursuant to 2 N.N.C. § 164(A)(6)).
- G. On February 19, 2022, pursuant to Resolution NAGSF-01-22, attached as **Exhibit B**, the Naabik'íyáti' Gaming Subcommittee recommended that the Naabik'íyáti' Committee approve the First

Amendment to 2021 Arizona Compact in a form substantially the same as **Exhibit A**.

**SECTION THREE. APPROVAL AND ADOPTION**

- A. The Navajo Nation Council hereby approves and accepts the First Amendment to 2021 Arizona Compact in a form substantially the same as **Exhibit A**.
- B. The Navajo Nation Council hereby authorizes the President of the Navajo Nation to execute the First Amendment to 2021 Arizona Compact and any other documents necessary or appropriate to effectuate the purpose of this resolution.

**CERTIFICATION**

I hereby certify that the foregoing resolution was duly considered by the 24<sup>th</sup> 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 19 in Favor, and 00 Opposed, on this 17<sup>th</sup> day of March 2022.

  
Honorable Seth Damon, Speaker  
24<sup>th</sup> Navajo Nation Council

3/17/22

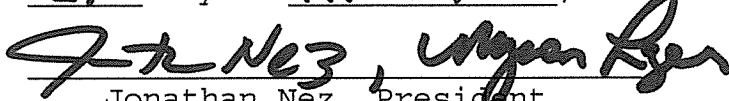
DATE

Motion: Honorable Nathaniel Brown  
Second: Honorable Kee Allen Begay, Jr.

Speaker Seth Damon not voting

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 27<sup>th</sup> day of March, 2022.

  
Jonathan Nez, President  
Navajo Nation

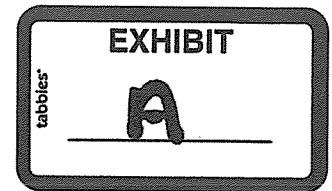
2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C)(11), on this \_\_\_\_\_ day of \_\_\_\_\_, 2022 for the reason(s) expressed in the attached letter to the Speaker.

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Jonathan Nez, President  
Navajo Nation



**NAVAJO NATION DEPARTMENT OF JUSTICE**  
**OFFICE OF THE ATTORNEY GENERAL**



DOREEN N. MCPAUL  
Attorney General

KIMBERLY A. DUTCHER  
Deputy Attorney General

MEMORANDUM

TO: Dana Bobroff, Chief Legislative Counsel  
Office of Legislative Counsel

FROM: Doreen N. McPaul  
Doreen N. McPaul, Attorney General  
Navajo Nation Department of Justice

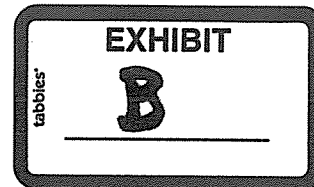
DATE: March 2, 2022

SUBJECT: **Confidential Exhibits for Proposed Legislation Regarding Approval of Amendments to the 2021 Arizona Gaming Compact**

Generally, exhibits to legislation are posted online for public view. However, pursuant to 2 N.N.C. § 164(A)(6), "[a]ny matters or exhibits determined by the Navajo Nation Department of Justice to be confidential shall be properly marked 'confidential' and shall not be placed on the website or otherwise released." There is an exhibit entitled "Agreement to Amend Compact" for the above-referenced legislation which DOJ deems confidential and should be kept from public view. Under 2 N.N.C. § 1964(G), only the Attorney General is authorized to waive the confidential and attorney-client privileged communication. Since these exhibits contain such sensitive information, the Attorney General maintains the confidentiality of these documents.

If you have any questions concerning this memorandum, please contact the Office of the Attorney General at (928) 871-6345. Thank you.

RESOLUTION OF THE  
 NAABIK'ÍYÁTI' GAMING SUBCOMMITTEE  
 24<sup>th</sup> NAVAJO NATION COUNCIL -- Fourth Year, 2022



AN ACTION RELATING TO THE NAABIK'ÍYÁTI' GAMING SUBCOMMITTEE;  
 RECOMMENDING THE NAABIK'ÍYÁTI' COMMITTEE APPROVE THE AGREEMENT TO  
 AMEND COMPACT BETWEEN THE NAVAJO NATION AND THE STATE OF ARIZONA  
 (THE "FIRST AMENDMENT TO 2021 ARIZONA COMPACT")

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council and has authority "[t]o review and continually monitor the programs and activities of federal and state departments and to assist development of such programs designed to serve the Navajo People and the Navajo Nation through intergovernmental relationships between the Navajo Nation and such departments." 2 N.N.C. § 701 (A) (7).
- B. Pursuant to Resolution No. NABIJY-37-19, the Naabik'íyáti' Committee authorized the Naabik'íyáti' Gaming Subcommittee "to negotiate [] all related issues regarding the separate gaming compacts the Navajo Nation has with the State of Arizona and the State of New Mexico respectively and to address related issues to protect Navajo Gaming," including to "submit to the Naabik'íyáti' Committee for review and approval any and all proposed amendments and/or compacts which are the result of such negotiation." NABIJY-37-19 §§ 3(A) and 3(B) (4).

SECTION TWO. FINDINGS

The 2021 Arizona Gaming Compact

- A. Pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. § 2710 (d) (1) (c), federal law requires the Navajo Nation to enter into a Tribal-State Gaming Compact with a State in order for the Navajo Nation to conduct Class III gaming activities within that State.
- B. On April 10, 2021, the Navajo Nation Council approved and accepted the Navajo Nation - State of Arizona Amended and Restated Gaming Compact ("2021 Arizona Compact") pursuant to Resolution CAP-19-21, and on April 15, 2021, the President of the Navajo Nation signed Resolution CAP-19-21, and signed and

delivered the 2021 Arizona Compact to the Governor of the State of Arizona.

- C. On May 24, 2021, the 2021 Arizona Compact took effect when notice of approval by the Secretary of the Interior was published in the Federal Register (86 FR 27889) in accordance with the Indian Gaming Regulatory Act, 25 U.S.C. § 2710(d)(3)(B).

First Amendment to 2021 Arizona Compact

- D. Under the direction of the Naabik'íyáti' Gaming Subcommittee and with the involvement of the Navajo Nation Gaming Enterprise and the Navajo Nation Department of Justice, the Navajo Nation has worked with the other federally-recognized Indian Tribes in Arizona to negotiate a First Amendment to 2021 Arizona Compact, attached as **Exhibit A**.
- E. The First Amendment to 2021 Arizona Compact enhances the stability of Tribal gaming in the State by facilitating the settlement of litigation filed by the Yavapai-Prescott Indian Tribe ("YPIT"), clarifies that a Tribe may choose to allow online and mobile event wagering across its Indian lands, and further clarifies that event wagering does not allow for full online casino gaming.

The Naabik'íyáti' Gaming Subcommittee

- F. On February 19, 2022, the Naabik'íyáti' Gaming Subcommittee met to receive reports on, consider, and review the First Amendment to 2021 Arizona Compact. The Naabik'íyáti' Gaming Subcommittee determined that the First Amendment to the 2021 Arizona Compact is in the best interest of the Navajo Nation.

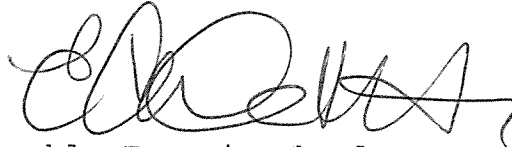
**SECTION THREE. RECOMMENDATION**

- A. The Naabik'íyáti' Gaming Subcommittee hereby recommends that the Naabik'íyáti' Committee approve the First Amendment to 2021 Arizona Compact in a form substantially the same as shown in **Exhibit A**.



## CERTIFICATION

I, hereby certify that the foregoing resolution was duly considered by the Naabik'íyáti' Gaming Subcommittee of the 24<sup>th</sup> Navajo Nation Council at a duly called meeting in Twin Arrows, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 07 in Favor, and 00 Opposed, on this 19th day of February 2022.



Honorable Eugenia Charles-Newton, Chairperson  
Naabik'íyáti' Gaming Subcommittee

2/23/22

Date

Motion: Honorable Pernell Halona

Second: Honorable Paul Begay

Chairperson Eugenia Charles-Newton not voting

# NAVAJO NATION

997

3/17/2022

Navajo Nation Council Special Session

01:36:00 PM

Amd# to Amd#	Legislation 0046-22: Approving	PASSED
MOT Brown	and Adopting Agreement to Amend	
SEC Begay, K	the Compact Between the Navajo	
	Nation and the State of....	

**Yeas : 19**

**Nays : 0**

**Excused : 4**

**Not Voting : 0**

**Yea : 19**

Begay, E	Daniels	Nez, R	Walker, T
Begay, K	Freeland, M	Smith	Wauneka, E
Begay, P	Halona, P	Stewart, W	Yazzie
Brown	Henio, J	Tso	Yellowhair
Charles-Newton	James, V	Tso, D	

**Nay : 0**

**Excused : 4**

Tso, E	Tso, C	Slater, C	Crotty
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**Not Voting : 0**

**Presiding Speaker: Damon**