LEGISLATION NO: _0064-21__ SPONSOR: Eugenia Charles-Newton

TITLE: An Action Relating to the Resources and Development and Naabik’íyáti Committees and the Navajo Nation Council; Approving and Adopting the Navajo Nation – State of Arizona Amended and Restated Gaming Compact (“2021 Arizona Compact Amendments”), Related Appendices, Transfer Pool Agreements, and Memorandums of Understanding with Other Tribal Governments

Date posted: __April 1, 2021 at 4:39PM

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DATE: March 30, 2021

TITLE OF RESOLUTION: AN ACTION RELATING TO THE RESOURCES AND DEVELOPMENT AND NAABIK'ÍYÁTÍ COMMITTEES AND THE NAVAJO NATION COUNCIL; APPROVING AND ADOPTING THE NAVAJO NATION – STATE OF ARIZONA AMENDED AND RESTATED GAMING COMPACT (“2021 ARIZONA COMPACT AMENDMENTS”), RELATED APPENDICES, TRANSFER POOL AGREEMENTS, AND MEMORANDUMS OF UNDERSTANDING WITH OTHER TRIBAL GOVERNMENTS

PURPOSE: This resolution, if approved, will approve the Navajo Nation – State of Arizona Amended and Restated Gaming Compact (“2021 Arizona Compact Amendments”), Related Appendices, Transfer Pool Agreements, and Memorandums of Understanding with other Tribal Governments

This written summary does not address recommended amendments as may be provided by the standing committee. The Office of Legislative Counsel requests each committee member to review the proposed resolution in detail.
PROPOSED NAVAJO NATION COUNCIL RESOLUTION

24th NAVAJO NATION COUNCIL – Third Year, 2021

INTRODUCED BY

(Prime Sponsor)

TRACKING NO. 0064-21

AN ACTION

RELATING TO THE RESOURCES AND DEVELOPMENT AND
NAABIK'ÍYÁTÌ COMMITTEES AND THE NAVAJO NATION COUNCIL;
APPROVING AND ADOPTING THE NAVAJO NATION – STATE OF
ARIZONA AMENDED AND RESTATED GAMING COMPACT (“2021
ARIZONA COMPACT AMENDMENTS”), RELATED APPENDICES,
TRANSFER POOL AGREEMENTS, AND MEMORANDA OF
UNDERSTANDING WITH OTHER TRIBAL GOVERNMENTS

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 is a standing committee of the Navajo Nation and
has power “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

C. 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).

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 December 31, 2002, the Navajo Nation Council, through the Intergovernmental Relations Committee, first approved the 2003 Arizona Gaming Compact by adoption of Resolution No. IGRD-250-02 “Approving a Compact By and Between the Navajo Nation and the State of Arizona by Passage of Proposition 202 and Authorizing the President of the Navajo Nation to Sign a Compact with the State of Arizona.” Exhibit A.

C. On January 5, 2009, the Navajo Nation Council through the Intergovernmental Relations Committee adopted Resolution No. IGRJA-004-09 “Approving and
Accepting the Agreement to Amend Compact Between the Navajo Nation and the State of Arizona.” **Exhibit B.**

D. In October of 2016, pursuant to Resolution No. NABI-92-16, the Navajo Nation commenced negotiations with the Arizona Governor and other Arizona Indian Tribes to amend the Arizona Tribal-State Gaming Compact after finding “the need for a longer term of the Gaming Compact, increase in the scope of gaming and streamlining the regulatory processes are a necessity and serve the best interest of the Navajo Nation.”. **Exhibit C.**

E. 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 2021 Arizona Compact Amendments and related appendices, which, among other benefits to the Navajo Nation, extend the term of the compact, increase the scope of gaming, and streamline the regulatory processes in accordance with Resolution No. NABIN-92-16.

F. As part of negotiations regarding the 2021 Arizona Compact Amendments, the Arizona State Legislature is considering the 2021 Arizona Gaming Act, HB 2772 attached as **Exhibit D,** which includes an opportunity for up to ten (10) Indian tribes to obtain a license to conduct mobile event wagering (e.g., sports betting) throughout the State of Arizona, outside of the Navajo reservation. The license may be issued to “an Indian tribe, or an entity fully owned by an Indian tribe, or its designee contracted to operate only mobile event wagering outside the boundaries of its Indian lands and throughout the state if it has signed the most recent tribal-state gaming compact and any applicable appendices or amendments”.

G. On February 28, 2021, the Naabik’íyáti’ Gaming Subcommittee voted to recommend approval of the 2021 Arizona Compact Amendments, attached in redline as **Exhibit E** and in final form as **Exhibit F,** and the Amended and Restated Memorandum of Understanding and Cooperation between the Navajo Nation and the Yavapai-Apache Nation, attached as **Exhibit G,** to the Naabik’íyáti’ Committee and the Navajo Nation Council; and on March 12, 2021, the Naabik’íyáti’Gaming Subcommittee also voted to reccommend approval of the 2021 Arizona Compact Appendices,
SECTION THREE. APPROVAL AND ADOPTION

A. The Navajo Nation Council hereby approves and accepts the 2021 Arizona Compact Amendments, Exhibit E (the Navajo Nation Attorney General has deemed this document as confidential and not subject to disclosure pursuant to 2 N.N.C. § 164(6)), and the following related supporting documents:

1. “The Navajo Nation – State of Arizona Amended and Restated Gaming Compact”, attached as Exhibit F (the Navajo Nation Attorney General has deemed this document as confidential and not subject to disclosure pursuant to 2 N.N.C. § 164(6)).

2. “Amended and Restated Memorandum of Understanding and Cooperation between the Navajo Nation and the Yavapai-Apache Nation”, attached as Exhibit G (the Navajo Nation Attorney General has deemed this document as confidential and not subject to disclosure pursuant to 2 N.N.C. § 164(6)).

3. 2021 Arizona Compact Amendment Appendices 1 through 13 (Vendor Certification and Licensing Procedures; Baccarat; Roulette; Craps; Blackjack; House Banked Poker; Promotional Award Poker; Gaming Devices; Surveillance and Security; Sic Bo; Big Six; Pai Gow Tiles; and Dealer Controlled Electronic Table Games) and Poker Memorandum of Understanding, attached as Exhibit H (the Navajo Nation Attorney General has deemed these documents as confidential and not subject to disclosure pursuant to 2 N.N.C. § 164(6)).

4. “Amendment to Gaming Device Operating Rights Transfer Pool between Navajo Nation and Tohono O’odham Nation”, attached as Exhibit I (the Navajo Nation Attorney General has deemed this document as confidential and not subject to disclosure pursuant to 2 N.N.C. § 164(6)).
5. "Amendment to Gaming Device Operating Rights Transfer Pool between Navajo Nation and Fort McDowell Yavapai Nation", attached as Exhibit J (the Navajo Nation Attorney General has deemed this document as confidential and not subject to disclosure pursuant to 2 N.N.C. § 164(6)).

6. "Agreement to Extend Gaming Device Operating Rights Transfer Pool Agreement between Navajo Nation and Gila River Indian Community", attached as Exhibit K (the Navajo Nation Attorney General has deemed this document confidential and not subject to disclosure pursuant to 2 N.N.C. § 164(6)).

B. The Navajo Nation Council hereby authorizes the President of the Navajo Nation to execute the Navajo Nation - State of Arizona Amended and Restated Gaming Compact of 2021, Exhibit F, and related Appendices, Transfer Pool Agreements and Memorandums of Understanding and Cooperation, Exhibits G through K, and any other documents necessary or appropriate to effectuate the purpose of this resolution, including, upon approval of the Naabik'íyáti' Committee, an appendix or appendices for event wagering, fantasy sports, keno, and/or minimum internal controls.

C. To continue efficient regulation of gaming and address future circumstances, the Naabik’íyáti’ Committee, upon recommendation of the Naabik’íyáti’ Gaming Subcommittee, is authorized to approve other modified or new appendices to the 2021 Arizona Compact Amendments, provided such modified or new appendices are agreed to by the Arizona Department of Gaming and the Navajo Nation Gaming Regulatory Office.

SECTION FOUR. DIRECTIVE TO NAVAJO NATION GAMING ENTERPRISE

On behalf of the Navajo Nation, the Navajo Nation Gaming Enterprise is authorized and hereby directed to comply with applicable regulations and to take such actions as may be necessary to secure applicable license(s) to conduct event wagering activities pursuant to the 2021 Arizona Gaming Act if such legislation is enacted and becomes effective.