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# President Shelly reports before Committee on Compacts

## Urges Legislature to approve 2014 Navajo Nation Gaming Compact



*Top, Navajo Nation President Ben Shelly reports before the Committee on Compacts for the second time in 2014 on Jan. 31. He urged the committee to pass the Navajo Nation Gaming Compact before the end of the Legislative Session. Below, President Shelly speaks to Sen. John Pinto. (Photo by Rick Abasta)*

For the second time in as many weeks, President Ben Shelly presented the Navajo Nation Gaming Compact to the N.M. Legislature Committee on Compacts at the Roundhouse on Jan. 31, 2014.

President Shelly said it was important for the Committee on Compacts to be well informed regarding the Navajo Nation

Gaming Compact because their decision would have a major impact on the tribal economy and jobs.

He spoke about the geographic restrictions raised by other tribal leaders at the first meeting a week earlier.

“At the last committee hearing, several tribal leaders raised concerns on the future locations for the Navajo Nation’s

gaming facilities along the I-40 corridor and Albuquerque area,” President Shelly said. “While I respect the recommendations from the other tribes, the Navajo Nation will not agree to any geographic restriction.”

He said the provision infringed upon Navajo sovereignty and cited three reasons why the Nation will not agree to the geographic restriction provision.

It is the Navajo Nation’s inherent right to develop and pursue any economic venture on our tribal trust lands, he said.

President Shelly said with over 50 percent unemployment on the Nation, any restriction on tribal economic development is not only unfair, but also immoral.

He noted that the geographic restrictions are in violation of the Indian Gaming Regulatory Act and that the Department of the Interior would not approve such a provision.

Case in point is the August 2013 opinion from DOI regarding the Menominee Tribe, which stated that IGRA does not grant an affirmative right for any nearby tribes to be free from economic competition.

In response to comments that gaming facilities should compete with outside gaming industries such as Las Vegas, President Shelly said the Navajo Nation Gaming Compact does adopt additional industry standards that meet the Nation’s needs.

The two main provisions in the industry standards would allow the Nation’s gaming facilities to be open 24 hours a day, seven days a week; and that food and

drinks would be available at a reduced rate under the player’s club program.

The third issue raised by President Shelly was in regard to the timeline for the approval of the gaming compact.

“During the last hearing, a tribal leader requested that the Navajo Nation Gaming Compact be tabled. We cannot endure further delay. We are on a very strict timeline to extend the term of the compact before it expires in 2015,” President Shelly said.

Upon approval by the Committee on Compacts, the Navajo Nation Gaming Compact would still need to be moved to the floor of the House and Senate for vote. After the N.M. Legislature’s approval, the compact would be sent to DOI for final approval in accordance with IGRA.

“Considering that this legislative session ends in approximately 20 days, it does not give us much time,” President Shelly said. “I respectfully request that this committee no longer delay and act on this matter.”

The first Committee on Compacts meeting convened on Jan. 22, and was scheduled as an education meeting focused on public comments. During that round of discussions, many pueblo leaders aired their grievances about the Navajo Nation Gaming Compact.

The common thread through all the public comments was the Navajo Nation’s five casinos and language on the population measure for the number of

casinos a tribe could have.

During both hearings, President Shelly stressed the importance of the gaming compact to the Navajo Nation and reminded the Committee on Compacts that they approved and moved the 2013 compact to the floor by a vote of 11-4 on March 11, 2013.

“The Navajo Nation worked tirelessly on the 2013 gaming compact and we were very disappointed that it was not placed on the Senate floor for a vote,” President Shelly said.

After the 2013 legislative session, the Nation met with

amended Section 9B by stipulating that the state will continue to have a remedy on any payment claims of the 2001 compact, as long as the state provides notice within two years after the effective date of the gaming compact.

“We are neighbors and we need to foster the government-to-government relationship between the State of New Mexico and the Nation,” President Shelly said. “As two sovereign and independent governments, we must be respectful to the positions, concerns and struggles

## “We are neighbors and we need to foster the government-to-government relationship between the State of New Mexico and the Navajo Nation.”

DOI to discuss the 2013 compact. Under provisions in IGRA, DOI is the final authority for approval of tribal state gaming compacts.

From those discussions with DOI and Interim Legislative Committees, free play, Class II gaming and the condition that the Nation will have to pay any debts to the state before the execution of the gaming compact were all raised as issues.

“Taking all of these factors into account, the Navajo Nation made the decision to request amendments to address the concerns of the Department of the Interior and the State Legislature,” he said.

Amendments to the 2014 compact either removed or amended the provisions of those three issues. Specifically, the free play formula was removed and the accounting methods of free play will be conducted in accordance with Generally Accepted Accounting Principles and the National Indian Gaming Commission Standards.

Amendments to the 2014 compact also removed any reference to Class II gaming.

Finally, the 2014 compact

that the Nation and New Mexico face.

“The Navajo Nation has given its best good faith efforts to negotiate and present a compact to the state that is in the best interest for our Navajo people, New Mexicans and economic development,” he added.

The third and final meeting of Committee on Compacts will take place on Feb. 5, beginning at 10 a.m. in Room 322 of the State Capitol in Santa Fe, N.M. to consider and take action the Navajo Nation Gaming Compact.

The N.M. Legislative Session ends at noon on Feb. 20, 2014.



President Shelly and Jessica Hernandez, assistant chief of staff and general counsel for Gov. Susana Martinez, listen to concerns from the Committee on Compacts regarding the Navajo Nation Gaming Compact on Jan. 31, 2014. (Photo by Rick Abasta)



On Jan. 22, 2014, President Shelly first reported before the Committee on Compacts and said the Navajo Nation worked tirelessly on the gaming compact in 2013, only to be disappointed when it was not placed on the floor for vote. (Photo by Rick Abasta)



Representative George K. Munoz (D-Bernallilo) said the Navajo Nation worked in good faith and negotiated the terms of the compact with the state and the pueblos and should be moved forward for vote. (Photo by Rick Abasta)