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HOUSE BILL 57

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

JAMES ROGER MADALENA

FOR THE INDIAN AFFAIRS COMMITTEE

AN ACT

RELATING TO GAMING; ESTABLISHING PROCEDURES FOR NEGOTIATION,
APPROVAL AND EXECUTION OF GAMING COMPACTS BETWEEN THE STATE AND
INDIAN TRIBES; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE. -- This act may be cited as the
"Gaming Compact Act".

Section 2. DEFINITIONS. -- As used in the Gaming Compact
Act:

A. "committee" means the joint legislative committee
on compacts created pursuant to Section 4 of the Gaming Compact
Act;

B. "compact" means a tribal-state gaming compact
entered into between a tribe and the state pursuant to IGRA and
includes an ancillary agreement or proposed ancillary agreement

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1 related to that compact;

2 C. "gaming" means "class III gaming" as defined in
3 IGRA;

4 D. "IGRA" means the federal Indian Gaming Regulatory
5 Act (25 U. S. C. A. Sections 2701 et seq.); and

6 E. "tribe" means an Indian nation, tribe or pueblo
7 located in whole or in part within the state.

8 Section 3. COMPACTS--NEGOTIATION--SUBMISSION TO
9 LEGISLATURE BY GOVERNOR--APPROVAL OR REJECTION--ATTORNEY GENERAL
10 AS LEGAL COUNSEL--COMPACT PROVISIONS--REPORT OF GOVERNOR TO
11 LEGISLATURE.--

12 A. A request by a tribe to negotiate a compact shall
13 be made by the governing authority of the tribe and shall be
14 submitted to the governor in writing.

15 B. The governor may designate a representative to
16 negotiate the terms of a compact. The designation shall be
17 written, and a copy of the designation shall be delivered or
18 mailed within three days of the designation to the attorney
19 general, the speaker of the house of representatives and the
20 president pro tempore of the senate. The governor or the
21 governor's designated representative is authorized to negotiate
22 the terms of a compact on behalf of the state, but neither the
23 representative nor the governor is authorized to execute a
24 compact on behalf of the state without legislative approval
25 granted pursuant to the provisions of this section.

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1 C. A compact negotiated pursuant to this section
2 shall contain provisions requiring that:

3 (1) the minimum age for placing bets in any
4 gaming establishment be twenty-one years of age;

5 (2) free liquor and food not be dispensed in
6 the casino as incentives to game;

7 (3) cashing a federal social security or any
8 government assistance check be prohibited and that the
9 prohibition be strictly enforced;

10 (4) automated teller machines in close
11 proximity to a casino be restricted from taking government
12 assistance debit or similar government assistance cards;

13 (5) the minimum average payout for winnings be
14 equivalent to the average payout acceptable in Nevada casinos;

15 (6) each casino has an on-line, on-site
16 computer monitoring system for slot machines;

17 (7) compulsive gambler identification and
18 prevention programs be implemented by the casino;

19 (8) reasonable notice be provided to tribal
20 regulatory agencies for access by state gaming oversight
21 officials to casinos and casino business areas;

22 (9) the term of a compact be fifteen years with
23 automatic renewals at five-year intervals, subject to
24 renegotiation or modification;

25 (10) casino gaming operations be closed for

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1 four hours per day on Monday through Thursday, with the
2 exception of holidays that fall on those weekdays; and

3 (11) an ancillary revenue sharing agreement be
4 negotiated in conjunction with the compact that provides revenue
5 to the state, in exchange for a limitation on expansion of non-
6 Indian gaming.

7 D. If a proposed compact is agreed upon through
8 negotiations, it shall be prepared and submitted by the governor
9 to the committee within five days of the conclusion of
10 negotiations. The governor shall include in his submittal
11 document his recommendation for approval of the proposed compact
12 and any comments about or analysis of its provisions. Submittal
13 of a proposed compact occurs when the compact and the submittal
14 document are received for the committee by the legislative
15 council service.

16 E. The committee shall review the proposed compact
17 and within twenty days after its receipt shall:

18 (1) by written report to the legislature
19 recommend approval of the compact as proposed; or

20 (2) by written transmittal document propose
21 specific modifications to the compact and request the governor
22 to resume negotiations with the tribe.

23 F. If the committee proposes specific modifications
24 to the proposed compact, the governor or his designated
25 representative shall resume negotiations with the tribe within

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1 twenty days of receipt of the transmittal document unless within
2 that time period either the governor or the tribe refuses to
3 negotiate further, in which case the governor shall notify the
4 committee immediately. If negotiations are resumed, the
5 governor shall submit to the committee the modified proposed
6 compact agreed to by the governor and the tribe, together with
7 any additional analysis or recommendations. The approval
8 process described in this section for the originally submitted
9 proposed compact shall be followed for consideration of a
10 proposed modified compact, except that the time limitation for
11 review by the committee specified in Subsection D of this
12 section is reduced to ten days.

13 G. Within five days of being notified that further
14 negotiations are refused, the committee shall reconsider the
15 proposed compact together with any changes agreed upon by the
16 negotiating parties and submit to the legislature a written
17 recommendation to approve the compact or a written statement
18 expressing no recommendation on the action that should be taken
19 by the legislature.

20 H. The committee may return suggested modifications
21 of a compact to the governor and the tribes for renegotiation no
22 more than three times. After the third submittal for
23 renegotiation, the committee shall submit a report in writing to
24 the legislature making a recommendation to approve the compact
25 or making no recommendation. The procedure for legislative

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1 review and approval remains the same as set forth in other
2 subsections of this section.

3 I. If the legislature is in session when the
4 committee submits its recommendation, the committee within five
5 days of the date the written recommendation is submitted shall
6 prepare and introduce in each house a resolution approving the
7 compact. A single resolution in each house may cover more than
8 one compact if the terms of the compacts are identical except
9 for the name of the tribe and the name of the person executing
10 the compact on behalf of the tribe. A copy of the written
11 recommendation shall be submitted with the resolution. If a
12 majority of the qualified members of each house votes to adopt
13 the resolution, the compact is approved by the legislature, and
14 the governor shall execute it on behalf of the state.

15 J. If the legislature is not in session when the
16 recommendation of the committee is submitted, the committee
17 shall proceed pursuant to the provisions of Subsection I of this
18 section by no later than the third day after the legislature
19 convenes in a regular session, if within ninety days of the
20 submittal, or in a special session that the governor shall call
21 for the purpose of considering a compact if more than ninety
22 days remain before the first day of a regular session following
23 the submittal.

24 K. The legislature may not amend or modify a
25 resolution submitted to it pursuant to the provisions of this

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1 section, and it may not refer the resolution to a committee.

2 L. The attorney general shall be legal counsel for
3 the governor or the governor's representative in compact
4 negotiations.

5 M. A compact negotiated pursuant to the provisions
6 of this section shall contain a provision recognizing the right
7 of each party to the compact to request that the compact be
8 amended or renegotiated, including the right of the legislature
9 by resolution to request that the compact be amended or
10 renegotiated. This provision shall state that each party has an
11 obligation to negotiate in good faith if a request is made.
12 Proposed amendments to or renegotiation of a compact shall
13 follow the same procedures as specified in this section for
14 initial negotiation of a compact. Any amendment to a compact or
15 renegotiated compact agreed to shall be submitted for
16 legislative approval in the same manner as specified in
17 Subsection I of this section.

18 N. If a request for negotiation of a compact is made
19 and the proposed compact is identical to a compact previously
20 approved by the legislature except for the name of the
21 compacting tribe and the names of the persons to execute the
22 compact on behalf of the tribe and on behalf of the state, the
23 governor shall approve and sign the compact on behalf of the
24 state without submitting the compact for approval pursuant to
25 the provisions of this section. A compact signed by the

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1 governor pursuant to this subsection is deemed approved by the
2 legislature.

3 Section 4. JOINT LEGISLATIVE COMMITTEE ON COMPACTS--
4 CREATION-- MEMBERSHIP-- AUTHORITY. --

5 A. The "joint legislative committee on compacts" is
6 created. Once established it shall continue operating until
7 specific action is taken by the legislature to terminate its
8 existence.

9 B. The committee shall have eight members, four from
10 the house of representatives and four from the senate. House
11 members shall be appointed by the speaker of the house of
12 representatives, and senate members shall be appointed by the
13 committees' committee of the senate or, if the senate
14 appointments are made in the interim, by the president pro
15 tempore of the senate after consultation with and agreement of a
16 majority of the members of the committees' committee. Members
17 shall be appointed from each house to give the two major
18 political parties in each house equal representation on the
19 committee. At least one member appointed from each house shall
20 be Native American.

21 C. In addition to its duty to review proposed
22 compacts, the committee may establish and transmit to the
23 governor proposed guidelines reflecting the public policies and
24 state interests, as embodied in the constitution of New Mexico,
25 state laws and case law of the state, that are consistent with

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1 IGRA and that will be used by the committee in reviewing
2 proposed compacts.

3 D. The president pro tempore of the senate shall
4 designate a senate member of the committee to be chairman of the
5 committee in odd-numbered years and the vice chairman in even-
6 numbered years. The speaker of the house of representatives
7 shall designate a house member of the committee to be chairman
8 of the committee in even-numbered years and the vice chairman in
9 odd-numbered years.

10 E. The committee shall meet at the call of the
11 chairman.

12 F. The committee may meet during legislative
13 sessions as needed.

14 G. Staff services for the committee shall be
15 provided by the legislative council service.

16 Section 5. ACCESS TO DOCUMENTS--LIMITATION. -- Reports,
17 records, data compilations, documents or other information
18 received by a state agency or office from a tribe or any of its
19 agencies, offices or enterprises pursuant to an approved compact
20 are public records of the state and may be inspected or copied
21 by the public, except that the following documents are
22 confidential and shall not be made available to the public
23 without the express consent of the tribe or except as is
24 otherwise provided in an approved compact:

25 A. reports containing results of background

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1 investigations of individuals employed at tribal gaming
2 enterprises, vendors, contractors and management officials and
3 any other documents pertaining to those investigations;

4 B. documents showing income and expenses of tribal
5 gaming facilities;

6 C. documents pertaining to complaints or allegations
7 of violations of applicable laws or compact provisions and
8 investigations into those complaints or allegations;

9 D. documents pertaining to licensing of or
10 investigation into gaming devices and documents containing
11 proprietary information concerning the devices, including
12 information concerning payouts of individual gaming devices; and

13 E. documents pertaining to security and surveillance
14 systems, operations and procedures at gaming facilities.

15 Section 6. EMERGENCY.--It is necessary for the public
16 peace, health and safety that this act take effect immediately.