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STATEMENT BY THE PUEBLO OF ACOMA
GOVERNOR GREGG SHUTIVA
INDIAN AFFAIRS COMMITTEE
SEPTEMBER 25, 2013

Good afternoon Madame Chair and members of the Committee. My name is Gregg Shutiva, and I am Governor of the Pueblo of Acoma. First of all, I want to thank the Committee for allowing me the opportunity to comment on the status of the Gaming Compact negotiations between the Pueblo of Acoma and the Governor's Office. We have been in formal negotiations with the Governor's Chief negotiators since May of 2012.

- First, if I may Madame Chair, I would like to provide the Committee a quick timeline on our negotiations with the state. In early 2012, Acoma informed Governor Martinez in writing of its wish to enter into negotiations as required by the state's Compact Negotiation Act. The Act allows tribes to negotiate a compact or to negotiate an amendment to an approved and existing compact. Our current compact expires on June 30th of 2015.
- Acoma joined four other tribes operating under the existing agreement negotiated in 2001 and submitted a request to negotiate with the state. The tribes included Pojoaque Pueblo, the Mescalero Apache Tribe, the Jicarilla Apache Nation and Navajo. Only the Navajo Nation has reached a new agreement with the state. That occurred during this past legislative session. But neither the New Mexico Legislature nor the Interior Department has formally approved their compact. Approval by the

Department of Interior is required under the federal Indian Gaming Regulatory Act before a compact takes effect. Federal approval standards call for "substantial benefits" to the Tribe, and "meaningful concessions" by the State. A State cannot charge a Tribe any "tax, fee, or assessment" to enter into a gaming compact.

- To continue with the timeline, in early 2012 representatives from the 5 gaming tribes along with their attorneys, their gaming commissioners, and business staff met off and on in preparation for our first official meeting with the State. The tribes carefully reviewed, compared and considered the terms and provisions in both the 2001 Compact negotiated with Governor Gary Johnson and the 2007 Compact amendments, which was negotiated under the Richardson administration. For your information, 9 New Mexico tribes operate under that agreement. However, Acoma along with the 4 other remaining tribes did not sign onto that agreement for various reasons. But, as the five tribes met by themselves in early 2012, we weighed what we wanted in a new agreement including revenue share, exclusivity, duration, industry standards, and jurisdiction, among other provisions. We also wanted to determine which terms would require major discussion and negotiation with the state. By the time we had our first official set of meetings with the state, what each tribe expressed and agreed to, was a desire to get a compact negotiated by the 2013 session.
- In May 2012, the state formally met with representatives from the tribes in Santa Fe on two separate occasions. By then, the tribes had submitted a list of areas for consideration and negotiation in a new agreement. The Governor's negotiators informed the tribes it had spent time reviewing the list and had also compared the 2001 Compact with the 2007 Compact to see what could be modified, what needed to be included or what could be removed. The State also expressed a desire to travel to our respective tribal communities, meet one on one with tribal leaders, and observe our gaming operations.

- There were no negotiation sessions held during the summer months of 2012. Formal negotiations didn't get underway again until September of last year and, thereafter, the sessions were placed on an accelerated schedule through the remainder of the year and into early January of this year in hopes of arriving at an agreement.
- There was a lot of intense discussion, a lot of give and take…however; trying to arrive at an agreement with and between five diverse sovereign nations and the State can become a major challenge. In the end, we were unable to arrive at a negotiated agreement by the time the Legislature met in January, except for Navajo. They kept negotiating with the State on their own, and were intent on getting a compact approved during the 2013 Legislative Session. Drafting legal language for a new or amended compact is a lengthy process. As a result, the state and the four remaining tribes agreed to suspend compact negotiations during the entire length of a 60-day session.
- In the final days of the session, the Legislative leadership, once they were alerted that an agreement had been reached between Navajo and the State, named a Joint Committee on Compacts, consisting of 8 members each from the House and the Senate, and also an equal number of Republicans and Democrats, along with 19 advisory members from the Legislature. Three days before the 2013 session was to end, Senator George Munoz of Gallup, who is Chairman of the Joint Committee on Compacts, called a hearing to consider and vote on Navajo's compact negotiated with the State Governor.
- Just so members of this Committee know, the State's Compact Negotiation Act allows the committee up to 45 days to consider a proposed compact or amendment. In fact, the Joint Committee has the authority to propose specific modifications and ask the Governor to resume negotiations with a tribe. That can occur three separate times. Each time, the Committee can request changes, but cannot require them.

- However, the Compact Committee decided not to engage in a detailed discussion or a lengthy debate regarding the provisions agreed to in Navajo's Compact, and after just 3 hours of testimony and some questioning and comment, the committee voted 11 to 4 to recommend adoption of the compact negotiated between the State and the Navajo Nation. For those of us who were observers of the Committee's actions, the lightning fast approval of a complex document was unusual, to say the least. However, despite the Committee's action, a Joint Resolution to approve the compact never made it to the Floor for consideration by the full legislative body. A Joint Resolution is another requirement under the Compact Negotiation Act to document approval by the State.
- During the Compact Committee hearing, Acoma made it very clear it was <u>not</u> signing onto Navajo's Compact and that it would continue to negotiate with the State. Acoma also informed Committee members that we wanted our compact to be given the same swift and favorable consideration by the Joint Committee, and that our compact would likely contain new terms and new language. We also made it abundantly clear that Navajo's Compact should not set the benchmark or become the model agreement for the remaining tribes still in negotiations with the state.
- This past May, the four remaining tribes resumed their negotiations with the State. We have met at different times throughout the summer. Because our negotiations with the state are considered confidential, until we have arrived at a negotiated agreement, I cannot go into any detail on the terms and provisions that have been under discussion or what has been negotiated and what has not.
- However, at this point in the negotiations, I can tell you this, be aware there may be separate compacts, not sure how many, with different terms and different provisions that may come before the legislature for an up or down vote. Here is my understanding of what that means. After action by the Joint Committee, the

Compact Negotiation Act (11-13A-4 NMSA) requires the committee to "prepare and introduce a Joint Resolution to approve the compact or amendment without delay after reaching its decision." The Joint Resolution needs to be "accompanied by the committee's recommendation to approve or to disapprove or express no recommendation." The Joint Resolution cannot be amended or referred to any other committee. This means that the legislature votes on the compact negotiated by the tribe and State Governor's office without amendment, except to correct a technical error, if any.

- I can inform this Committee that Acoma's Compact will contain new terms and new language, different from Navajo's Compact. For that reason, the compact Navajo negotiated should not be held up as the norm when considering other gaming compacts still being negotiated between the remaining four tribes and the State. What one Tribe sees as beneficial may not seem so to another. We ask the Legislature to respect that.
- Finally Madame Chair, I want to inform this Committee that Acoma's intent is to get a Gaming Compact negotiated and available for consideration by the Joint Compact Committee and forwarded to the 2014 Legislature in a timely manner. Of course, that all depends on how negotiations proceed from here on.
- With that Madame Chair, I want to thank the Indian Affairs Committee for allowing me to give you a quick snapshot of what has taken place in the last 18 months regarding our Gaming Compact negotiations with the State. Thank you.