

State of New Mexico
LEGISLATIVE COMMITTEE ON COMPACTS
February 28, 2015
State Capitol, Santa Fe, New Mexico

STATEMENT OF LT. GOVERNOR DAVID MARTINEZ FOR
THE PUEBLO OF LAGUNA
CONCERNING 2015 PROPOSED UNIFIED GAMING COMPACT

Honorable Co-Chairs and Members of the joint Committee on Compacts: Thank you for this opportunity to provide comment on the 2015 Unified Gaming Compact. This statement is being offered on behalf of the Pueblo of Laguna.

The Pueblo of Laguna has repeatedly expressed respect for each and every tribe's right to negotiate and enter into government-to-government gaming compacts. Laguna has also said that tribes need compacts and they should have them approved. With respect to the 2015 unified Compact, Laguna again expresses its support for the tribes seeking compact approval and congratulate them and the Office of the Governor for completion of a unified draft compact. We also express our appreciation for all of the hard work that all of the parties put into the draft compact. Although there has been considerable anguish over the fact that this process has taken so long to arrive at where we are, there is no doubt that the distress, the comments, the discussions, and the debates by all involved, has yielded a proposed compact that finally addresses many of the issues that have been raised over the years.

While the proposed uniform compact has been much improved, the Pueblo of Laguna is still very much concerned about protecting its livelihood and the considerable investments made by it to generate income and jobs for the Pueblo, Pueblo members, other Native Americans, and non-tribal employees and businesses who have benefitted from Laguna's endeavors over the years. Specifically Laguna still has serious concern about the location of a new tribal casino that

is certain to be located near its Route 66 Casino Hotel on I-40 at Exit 140 near Rio Puerco, New Mexico.

The Albuquerque Gaming Market is Saturated

Laguna's concern has a basis in a well-known fact. New Mexico is currently one of the most competitive gaming markets in the country. Gaming revenues have been stagnant for nearly everyone. The economy has been unable to recover as well as in surrounding states. Population is decreasing as people decide to try their luck in other places. We know that there is some sentiment that there is no market saturation in New Mexico but we respectfully say there is saturation where casinos are concentrated such a in the Albuquerque market. An independent market study that was commissioned in 2014 has indicated that if a new casino is added to the Albuquerque market and is located within 1-5 miles of Laguna's Route 66 Casino, its gaming revenues will be impacted by as much as 17.3%. Laguna's Dancing Eagle Casino will be impacted by 3.8% and Acoma's Sky City Casino will be impacted with revenue reductions at 3.7%. The Albuquerque area gaming participants will collectively be impacted by 13.1%. (Santa Ana, Sandia, San Felipe, Isleta Resort, Isleta Palace West and Albuquerque Downs). The study also indicated that nearly every other gaming property in New Mexico could be affected. Northern market tribal casinos could collectively experience an 8.1% impact and Navajo's two casinos could experience a 1.8% effect.

A key provision that would likely result in a new casino in the Albuquerque market near Laguna's gaming properties is based on the proposition that an additional casino for one tribe over all the others, should be based on tribal population not market considerations. The State of New Mexico and this Legislature have a long and valued history of recognizing that each of the 22 tribes in the State deserve to be treated fairly and equitably. The proposed compact abandons

this concept of equal treatment for the tribes. The state has never “counted” tribal members when developing tribal-State policy and laws. Small tribes have been treated the same as medium sized tribes and larger tribes. We must ask: Why does only one tribe get preferential treatment based on population, where no other tribe is treated differently based on its population? As an example, the 2001, 2007, and even the 1995 compacts didn’t provide preferential treatment to one tribe over the other based on population. Laguna strongly believes the number of potential customers that could sustain a regional gaming market operations is the most important metric. This is a “New Mexico True” market consideration. Additional casinos, particularly in and around Albuquerque, would cannibalize an already limited and saturated market, making it more difficult for existing gaming entities to provide jobs and economic development in their communities and to many other New Mexicans.

Honor the Bargain

Laguna has prospered as a result of the bargained for exclusivity under its existing compact. If the Unified Compact is approved as written, the Pueblo’s means for sustaining its income and the jobs it has it has created will be substantially affected.

In a serious way, Laguna will lose the benefits of the exclusivity that it paid so dearly for since 2007 at the highest rates of revenue sharing even while other tribes paid much less.

The fact that there is a need for the Unified Compact to adequately address market oversaturation is not just a Laguna concern but it was also a key finding of the Legislative Finance Committee’s “Evaluation of Operational Effectiveness of Gambling Oversight in New Mexico” (Report to Legislative Finance Committee, New Mexico Racing Commission, and New Mexico Gaming Control Board, Report #13-02, May 15, 2013).

The Committee Should Request Modifications to the Proposed Compact

The New Mexico Compact Negotiation Act makes it incumbent on the Committee on Compacts to take into account “the best interests of the *tribes* and citizens of the state in considering any compact or amendment submitted to it,” (11-13-A-5(B) NMSA 1978). There are a number of ways to deal with Laguna’s concern about the very real certainty that a new casino will be located near Albuquerque and in close proximity to its main investment and source of income and jobs. A geographic restriction could be imposed or the provision allowing a tribe with 75,000 tribal members in NM to build a fourth casino in any area could be stricken. Also, the restriction on when such a fourth casino could be commence operations could be extended beyond 6 years. Today, on behalf of the Pueblo of Laguna, I ask the Committee to write to the Governor to request that negotiations be resumed to adopt one or both of the following modifications:

1. Deletion of the Provision Allowing an Additional Casino Based on Population.
2. Replace the restriction of 6 years on the operation of an additional casino based on population with a 10 year restriction.

Closing

Although the Pueblo of Laguna spent time talking on a tribe to tribe basis to try to find a way to address its location issue, resolution was not successful at this time. Laguna would welcome reopening the discussions but it is difficult under the circumstances. Therefore, because Laguna must try to protect its interests, it must make its concerns known to this body and the negotiating parties today. Adopting the proposed modifications do not deny anyone the right to participate in the New Mexico gaming market. The only tribe that can benefit from the provisions discussed herein is already a market participant whose investments were well made.

They have access to the gaming market place in other states and they are active in other industries and economic sectors.

Laguna has made significant investments into its economic development enterprises over the years. The negotiated compact seems to completely disregard this investment. Clearly gaming has reached a saturation point in our state, and coupled with the poor economy, we stand to lose much if there is not careful consideration of all tribal concerns. Please consider our proposed modifications carefully and work to maintain tribal gaming as a viable tool for all tribes. Laguna believes the basic principles of fairness, consistency and continuity would be seriously compromised under the currently proposed compact. We are simply requesting a level playing field that will enable Laguna to maintain the ability to provide critical financial support for its government and for its members.