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HOUSE BILL 703

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

RAYMOND G. SANCHEZ

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 designated  
21 representative of the governor is authorized to negotiate the  
22 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. If a proposed compact is agreed upon through  
2 negotiations, it shall be prepared and submitted by the governor  
3 to the committee within five days of the conclusion of  
4 negotiations. The governor shall include in his submittal  
5 document his recommendation for approval of the proposed compact  
6 and any comments about or analysis of its provisions. Submittal  
7 of a proposed compact occurs when the compact and the submittal  
8 document are received for the committee by the legislative  
9 council service.

10 D. The committee shall review the proposed compact  
11 and within thirty days after its receipt shall:

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

14 (2) by written transmittal document propose  
15 specific modifications to the compact and request the governor  
16 to resume negotiations with the tribe.

17 E. If the committee proposes specific modifications  
18 to the proposed compact, the governor or his designated  
19 representative shall resume negotiations with the tribe within  
20 thirty days of receipt of the transmittal document unless within  
21 that time period either the governor or the tribe refuses to  
22 negotiate further, in which case the governor shall notify the  
23 committee immediately. If negotiations are resumed, the  
24 governor shall submit to the committee the modified proposed  
25 compact agreed to by the governor and the tribe, together with

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1 any additional analysis or recommendations. The approval  
2 process described in this section for the originally submitted  
3 proposed compact shall be followed for consideration of a  
4 proposed modified compact, except that the time limitation for  
5 review by the committee specified in Subsection D of this  
6 section is reduced to ten days.

7 F. Within five days of being notified that further  
8 negotiations are refused, the committee shall reconsider the  
9 proposed compact together with any changes agreed upon by the  
10 negotiating parties and submit its written recommendation to the  
11 legislature.

12 G. If the legislature is in session when the  
13 committee submits its recommendation, the committee shall  
14 prepare and introduce in each house a resolution approving the  
15 compact within five days of the date the written recommendation  
16 is submitted. A single resolution in each house may cover more  
17 than one compact if the terms of the compacts are identical  
18 except for the name of the tribe and the name of the person  
19 executing the compact on behalf of the tribe. A copy of the  
20 written recommendation shall be submitted with the resolution.  
21 If a majority of the qualified members of each house votes to  
22 adopt the resolution, the compact is approved by the  
23 legislature, and the governor shall execute it on behalf of the  
24 state.

25 H. If the legislature is not in session when the

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1 recommendation of the committee is submitted, the committee  
2 shall proceed pursuant to the provisions of Subsection G of this  
3 section by no later than the third day after the legislature  
4 convenes in a regular session or in a special session called for  
5 the purpose of considering a compact.

6 I. The legislature may not amend or modify a  
7 resolution submitted to it pursuant to the provisions of this  
8 section, and it may not refer the resolution to a committee.

9 J. The attorney general shall be legal counsel for  
10 the governor or the governor's representative in compact  
11 negotiations.

12 K. A compact negotiated pursuant to the provisions  
13 of this section shall contain a provision recognizing the right  
14 of each party to the compact to request that the compact be  
15 amended or renegotiated, including the right of the legislature  
16 by concurrent resolution to request that the compact be amended  
17 or renegotiated. This provision shall state that each party has  
18 an obligation to negotiate in good faith if a request is made.  
19 Proposed amendments to or renegotiation of a compact shall  
20 follow the same procedures as specified in this section for  
21 initial negotiation of a compact. Any amendment to a compact or  
22 renegotiated compact agreed to shall be submitted for  
23 legislative approval in the same manner as specified in  
24 Subsection G of this section.

25 L. If a request for negotiation of a compact is made

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1 and the proposed compact is identical to a compact previously  
2 approved by the legislature except for the name of the  
3 compacting tribe and the names of the persons to execute the  
4 compact on behalf of the tribe and on behalf of the state, the  
5 governor shall approve and sign the compact on behalf of the  
6 state without submitting the compact for approval pursuant to  
7 the provisions of this section. A compact signed by the  
8 governor pursuant to this subsection is deemed approved by the  
9 legislature.

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

12 A. The "joint legislative committee on compacts" is  
13 created. Once established it shall continue operating until  
14 specific action is taken by the legislature to terminate its  
15 existence.

16 B. The committee shall have eight members, four from  
17 the house of representatives and four from the senate. House  
18 members shall be appointed by the speaker of the house of  
19 representatives, and senate members shall be appointed by the  
20 committees' committee of the senate or, if the senate  
21 appointments are made in the interim, by the president pro  
22 tempore of the senate after consultation with and agreement of a  
23 majority of the members of the committees' committee. Members  
24 shall be appointed from each house to give the two major  
25 political parties in each house equal representation on the

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1 committee.

2 C. In addition to its duty to review proposed  
3 compacts, the committee may establish and transmit to the  
4 governor proposed guidelines reflecting the public policies and  
5 state interests, as embodied in the constitution of New Mexico,  
6 state laws and case law of the state, that are consistent with  
7 IGRA and that will be used by the committee in reviewing  
8 proposed compacts.

9 D. The president pro tempore of the senate shall  
10 designate a senate member of the committee to be chairman of the  
11 committee in odd-numbered years and the vice chairman in even-  
12 numbered years. The speaker of the house of representatives  
13 shall designate a house member of the committee to be chairman  
14 of the committee in even-numbered years and the vice chairman in  
15 odd-numbered years.

16 E. The committee shall meet at the call of the  
17 chairman.

18 F. The committee may meet during legislative  
19 sessions as needed.

20 G. Staff services for the committee shall be  
21 provided by the legislative council service.

22 Section 5. ACCESS TO DOCUMENTS--LIMITATION.-- Reports,  
23 records, data compilations, documents or other information  
24 received by a state agency or office from a tribe or any of its  
25 agencies, offices or enterprises pursuant to an approved compact

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1 are public records of the state and may be inspected or copied  
2 by the public, except that the following documents are  
3 confidential and shall not be made available to the public  
4 without the express consent of the tribe or except as is  
5 otherwise provided in an approved compact:

6 A. reports containing results of background  
7 investigations of individuals employed at tribal gaming  
8 enterprises, vendors, contractors and management officials and  
9 any other documents pertaining to those investigations;

10 B. documents showing income and expenses of tribal  
11 gaming facilities;

12 C. documents pertaining to complaints or allegations  
13 of violations of applicable laws or compact provisions and  
14 investigations into those complaints or allegations;

15 D. documents pertaining to licensing of or  
16 investigation into gaming devices and documents containing  
17 proprietary information concerning the devices, including  
18 information concerning payouts of individual gaming devices; and

19 E. documents pertaining to security and surveillance  
20 systems, operations and procedures at gaming facilities.

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