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HOUSE BILL 638

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

James Roger Madalena

AN ACT

RELATING TO TRIBAL-STATE AGREEMENTS; ESTABLISHING A PROCESS FOR NEGOTIATION, APPROVAL, EXECUTION AND AMENDMENT OF CERTAIN AGREEMENTS 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 "Compact Negotiation Act".

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

A. "committee" means the joint legislative committee on compacts;

B. "compact" means a tribal-state class III gaming compact entered into between a tribe and the state pursuant to the federal Indian Gaming Regulatory Act and including any

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1 separate agreement ancillary to that compact;

2 C. "governor" means the governor of New Mexico;

3 and

4 D. "tribe" means an Indian nation, tribe or pueblo
5 located in whole or in part within the state.

6 Section 3. COMPACTS--NEGOTIATION--SUBMISSION TO
7 COMMITTEE BY GOVERNOR.--

8 A. A tribe, pursuant to action of its governing
9 authority, may request the state to negotiate a compact or to
10 negotiate an amendment to an approved and existing compact.
11 The request shall be in writing and shall be submitted to the
12 governor.

13 B. The legislature by joint resolution or the
14 governor may request a tribe to negotiate a compact or to
15 negotiate an amendment to an approved and existing compact by
16 submitting a written request to the chief executive officer of
17 the tribe or a representative authorized by an existing
18 compact to negotiate modifications to that compact.

19 C. The governor may designate a representative to
20 negotiate the terms of a compact or an amendment, unless a
21 representative has been identified in the wording of the
22 compact to be amended. The designation shall be written, and
23 a copy of the designation shall be delivered or mailed within
24 three days of the designation to the attorney general, the
25 speaker of the house of representatives and the president pro

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1 tempore of the senate. The governor or the governor's
2 designated representative is authorized to negotiate the terms
3 of a compact or amendment on behalf of the state, but neither
4 the representative nor the governor is authorized to execute a
5 compact or amendment on behalf of the state without
6 legislative approval granted pursuant to the provisions of
7 Section 4 of the Compact Negotiation Act.

8 D. If a proposed compact or amendment is agreed
9 upon through negotiations between the tribal representative
10 and the governor's representative, it shall be prepared and
11 submitted by the governor to the committee within five days of
12 the conclusion of negotiations. The governor shall include in
13 his submittal document his recommendation for approval of the
14 proposed compact or amendment and comments about or analysis
15 of its provisions.

16 Section 4. SUBMITTAL TO COMMITTEE--COMMITTEE ACTION--
17 LEGISLATIVE ACTION.--

18 A. Submittal of a proposed compact or amendment
19 occurs when the compact or amendment and the submittal
20 document are received for the committee by the legislative
21 council service.

22 B. After its receipt, the committee shall review
23 the proposed compact or amendment in a timely manner but no
24 later than forty-five days from receipt and shall:

- 25 (1) recommend approval of the proposed

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1 compact or amendment by submitting a joint resolution to
2 approve the compact or amendment to the legislature; or

3 (2) by written transmittal document, propose
4 specific modifications to the proposed compact or amendment
5 and request the governor to resume negotiations with the
6 tribe.

7 C. If the committee proposes specific
8 modifications to the proposed compact or amendment, the
9 governor or his designated representative shall resume
10 negotiations with the tribe within twenty days of receipt of
11 the transmittal document unless within that time period either
12 the governor or the tribe refuses to negotiate further, in
13 which case the governor shall notify the committee
14 immediately.

15 D. If negotiations are resumed pursuant to
16 Subsection C of this section and a modified proposed compact
17 or amendment is agreed to, the governor shall submit the
18 modified proposed compact or amendment together with any
19 additional analysis or recommendations to the committee. The
20 approval process described in this section for the originally
21 submitted proposed compact or amendment shall be followed for
22 consideration of a proposed modified compact or a proposed
23 modified amendment, except that the committee shall conduct
24 its review in a timely manner but in not more than thirty
25 days.

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1 E. Within thirty days of being notified that
2 further negotiations are refused, the committee shall meet to
3 reconsider the proposed compact or amendment together with any
4 changes agreed upon by the negotiating parties. The committee
5 shall submit to the legislature the proposed compact or
6 amendment and a joint resolution to approve the proposed
7 compact or amendment with the committee's recommendation to
8 approve it or disapprove it, or expressing no recommendation
9 on the action that should be taken by the legislature.

10 F. The committee may return a proposed compact or
11 amendment with suggested modifications to the governor and the
12 tribe for renegotiation no more than three times. After the
13 third submittal for renegotiation, the committee shall submit
14 to the legislature the proposed compact or amendment and a
15 joint resolution to approve the proposed compact or amendment
16 with the committee's recommendation to approve it or
17 disapprove it, or expressing no recommendation on the action
18 that should be taken by the legislature.

19 G. If the legislature is in session when the
20 committee makes its decision on the proposed compact or
21 amendment, the committee shall prepare and introduce a joint
22 resolution to approve the proposed compact or amendment
23 without delay after reaching its decision. The joint
24 resolution shall be accompanied by the committee's
25 recommendation to approve or to disapprove or expressing no

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1 recommendation. A joint resolution may cover more than one
2 compact or amendment if the terms of the compacts or
3 amendments are identical except for the name of the tribe and
4 the name of the person executing the compact on behalf of the
5 tribe. If a majority in each house votes to adopt the joint
6 resolution, the proposed compact or amendment is approved by
7 the legislature, and the governor shall execute it on behalf
8 of the state.

9 H. If the legislature is not in session when the
10 recommendation of the committee is submitted, the committee
11 shall proceed pursuant to the provisions of Subsection G of
12 this section by no later than the second day of the next
13 regular or special session of the legislature.

14 I. The legislature may only amend or modify the
15 joint resolution submitted to it pursuant to the provisions of
16 this section so as to correct technical errors in the text or
17 format. Neither house may refer the joint resolution to a
18 committee other than a committee of the whole in each house.

19 J. If a request for negotiation of a compact or
20 amendment is made and the proposed compact or amendment is
21 identical to a compact or amendment previously approved by the
22 legislature except for the name of the compacting tribe and
23 the names of the persons to execute the compact or amendment
24 on behalf of the tribe and on behalf of the state, the
25 governor shall approve and sign the compact or amendment on

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1 behalf of the state without submitting the compact for
2 approval pursuant to the provisions of this section. A
3 compact or amendment signed by the governor pursuant to this
4 subsection is deemed approved by the legislature.

5 Section 5. JOINT LEGISLATIVE COMMITTEE ON COMPACTS--
6 CREATION-- MEMBERSHIP-- AUTHORITY. --

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

11 B. The committee shall consider the requirements
12 of the federal Indian Gaming Regulatory Act, provisions of
13 existing state law and the best interests of the tribes and
14 the citizens of the state in considering any compact or
15 amendment submitted to it.

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

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1 authorities shall consider appointing to the committee a
2 Native American member or a member who represents a district
3 in which Native Americans constitute a significant percentage
4 of the voting age population.

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

12 E. The committee shall meet at the call of the
13 chairman to consider a compact or amendment submitted to it.

14 F. The committee may meet during legislative
15 sessions as needed.

16 G. Staff services for the committee shall be
17 provided by the legislative council service.

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

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3
4
5
6 February 27, 1999

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8 Mr. Speaker:

9
10 Your BUSINESS AND INDUSTRY COMMITTEE, to whom has
11 been referred

12
13 HOUSE BILL 638

14
15 has had it under consideration and reports same with
16 recommendation that it DO PASS, amended as follows:

17 1. On page 7, line 16, strike "eight members, four" and
18 insert in lieu thereof "sixteen members, eight".

19
20 2. On page 7, line 17, after "and" strike "four" and
21 insert in lieu thereof "eight".,

22 and thence referred to the JUDICIARY COMMITTEE.
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1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999

3 HBIC/HB 638

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4 Respectfully submitted,

8 _____
9 Debbie A. Rodella, Chairwoman

11 Adopted _____

Not Adopted _____

12 (Chief Clerk)

(Chief Clerk)

14 Date _____

15
16 The roll call vote was 9 For 0 Against

17 Yes: 9

18 Excused: Hanosh

19 Absent: Hobbs, Lutz

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1 FORTY- FOURTH LEGISLATURE
2 FIRST SESSION, 1999

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4 March 8, 1999

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7 Mr. Speaker:

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9 Your JUDICIARY COMMITTEE, to whom has been referred

10 HOUSE BILL 638, as amended

11
12 has had it under consideration and reports same with
13 recommendation that it DO PASS.

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15 Respectfully submitted,

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19 _____
20 R. David Pederson, Chairman
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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

3 HJC/HB 638aa

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4 Adopted _____ Not Adopted _____

6 (Chief Clerk)

(Chief Clerk)

8 Date _____

10 The roll call vote was 9 For 1 Against

11 Yes: 9

12 No: Stewart

13 Excused: Luna, Sanchez

14 Absent: None

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

1 HJC/HB 638aa

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

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March 17, 1999

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Mr. President:

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Your JUDICIARY COMMITTEE, to whom has been referred

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HOUSE BILL 638, as amended

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has had it under consideration and reports same with
recommendation that it DO PASS.

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Respectfully submitted,

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Michael S. Sanchez, Chairman

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

1 HJC/HB 638aa

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Adopted _____ Not

3

Adopted _____

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(Chief Clerk)

(Chief Clerk)

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Date _____

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The roll call vote was 4 For 2 Against

11

Yes: 4

12

No: Davis, McSorley

13

Excused: Aragon, Stockard

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Absent: None

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