

2005 Montana Legislature

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HOUSE BILL NO. 132

INTRODUCED BY N. BIXBY, V. SMALL-EASTMAN

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT DELEGATING AUTHORITY TO THE GOVERNOR TO NEGOTIATE AND EXECUTE CERTAIN CLASS III GAMING COMPACTS WITH MONTANA'S INDIAN TRIBES; PROVIDING CRITERIA FOR THE GOVERNOR TO FOLLOW; PROVIDING DEFINITIONS; PROVIDING FOR LEGISLATIVE NOTICE AND APPROVAL OF GAMING COMPACTS THAT AUTHORIZE NONPERMITTED GAMING OR THAT REQUIRE AN APPROPRIATION; DELEGATING TO THE GOVERNOR AUTHORITY TO NEGOTIATE AND DETERMINE CONDITIONS OF PLAY DIFFERENT FROM THOSE IN STATE LAW OR REGULATIONS UPON A DETERMINATION OF POSITIVE ECONOMIC IMPACTS TO THE TRIBE AND STATE; PROHIBITING THE LEGISLATURE FROM MODIFYING OR AMENDING THE LANGUAGE OF COMPACTS SUBMITTED FOR APPROVAL AND REQUIRING APPROVAL BY JOINT RESOLUTION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Legislative findings and intent. (1) For purposes of implementing the federal Indian Gaming Regulatory Act of 1988, Public Law 100-497, 102 Stat. 2467, 25 U.S.C. 2701, et seq., the legislature finds that it is necessary to clarify a delegation of authority to the governor to negotiate and execute class III gaming compacts with federally recognized Indian tribes within the state.

(2) It is the intent of the legislature to delegate to the governor authority to determine when entering into a compact to allow conditions of play that are different from those authorized by state law or regulation will further state and federal policy and to preserve the legislature's authority under Article III, section 9, of the Montana constitution to define the scope of gambling activities that are permitted in the state.

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 3], the following definitions apply:

(1) "Conditions of play" means state laws and regulations regarding hours or periods of operation, numbers of gaming devices, limitations on wagers, and limitations on prizes or pot sizes and is restricted to the conduct of permitted gaming.

(2) "Gaming compact" means an agreement between the state and a federally recognized Indian tribe as

approved by the secretary of the United States department of the interior pursuant to the Indian Gaming Regulatory Act of 1988, 25 U.S.C. 2701, et seq.

(3) "Permitted gaming" means those forms of gaming permitted by the legislature for any purpose by any person, organization, or entity.

NEW SECTION. Section 3. Governor authorized to negotiate and execute gaming compacts -- limits on governor's authority -- authority of legislature. (1) The legislature recognizes the governor's discretionary authority to negotiate conditions of play that are different from those established in state law or regulation, but reserves the authority to authorize any additional forms of permitted gaming as provided in Article III, section 9, of the Montana constitution.

(2) The governor may represent the state in any gaming negotiation conducted pursuant to 25 U.S.C. 2701, et seq. The negotiations must be conducted by the governor, the attorney general, representatives of the appropriate gambling regulatory agency, and others designated by the governor as appropriate. The legislative council must be notified of the commencement of negotiations.

(3) Except as provided in subsection (4), the governor may execute a gaming compact or an amendment to a compact if:

(a) the compact is restricted to authorizing permitted gaming; and

(b) the compact does not include conditions of play that are significantly different from those provided by state law and department of justice rules unless the governor determines that conditions of play that are significantly different from those established by law and that are included in the compact will contribute to:

(i) substantial positive economic impacts to the state and tribes;

(ii) promoting business development and providing for economic self-sufficiency of an Indian tribe or tribes;

(iii) strengthening tribal governments; and

(iv) protecting tribal gaming from organized crime and other corrupting influences.

(4) A compact or an amendment to a compact that authorizes gaming that is not permitted gaming or that requires an appropriation of state funds must be submitted to the legislature for approval prior to execution of the compact or amendment. The legislature may not amend or modify the language of a gaming compact submitted for approval, but may approve a submitted compact. The approval must be by joint resolution enacted by the legislature.

NEW SECTION. Section 4. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell band of Chippewa.

NEW SECTION. **Section 5. Codification instruction.** [Sections 1 through 3] are intended to be codified as an integral part of Title 23, chapter 5, and the provisions of Title 23, chapter 5, apply to [sections 1 through 3].

NEW SECTION. **Section 6. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 7. Applicability.** [This act] does not apply to gaming compacts negotiated and approved by a Montana Indian tribe and the state before [the effective date of this act].

- END -

Latest Version of HB 132 (HB0132.01)

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New language in a bill appears underlined, deleted material appears stricken.

Sponsor names are handwritten on introduced bills, hence do not appear on the bill until it is reprinted.

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