



## **CNIGA Guiding Principles for Tribes/Brown Administration Compact Negotiations**

- I. Use the Voter-Approved Tribal State Policy Embraced in the 1999 Compacts as the Starting Point for Negotiations.
  - a. The People of California effectively embraced the 1999 Compacts, because the details were already disclosed and widely discussed when the substantial majority of the People approved Proposition 1A in March, 2000.
  - b. The Schwarzenegger Amendments were NOT based on a showing of any deficiency in the 1999 Compact terms as the Schwarzenegger Administration never demonstrated that the 1999 Compact provisions and their attendant remedies did not work. If the Brown Administration in good faith articulates with respect to specific provisions concerns that are legitimate pursuant to IGRA, the tribes will work to address all such concerns in a manner that respects the interests of both tribal and state government and the balance of power between them as established by IGRA and other federal laws.
  - c. The Schwarzenegger Amendments were not the product of careful policy decision making and this Administration should not perpetuate the failed paradigm built by the Schwarzenegger Administration.
  
- II. Change Structure of Revenue Sharing Provisions to Meet Ninth Circuit and District Court Opinions in *Rincon v. Schwarzenegger*.
  - a. Eliminate the state-wide gaming device license pool and simply set forth the maximum number of Class III machines each tribe may operate.
  - b. Create a special fund under state law that can be used solely for defraying actual, reasonable and necessary regulatory costs and other compact obligations (e.g. Labor Panel), with overages to be paid to the RSTF and to eligible state-wide non-profits dedicated to problem gambling.
  - c. Eliminate the SDF.
    - i. For those tribes currently paying into the SDF, that portion of their SDF payment that is distributed to county and local government will continue to be paid, but into a new system. The tribes shall make those payments directly into tribally-controlled accounts they create which can only be used for matters directly related to gaming. Eligible local governments must reach agreements with the tribe as to the specific programs the accounts will fund. Funds may be used to secure bonds and other forms of financing.

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- ii. Alternatively, create a local Community Benefit Fund to mitigate impacts through grants which would: 1) compensate local or state governments for impacts to local infrastructure and other costs from gaming; 2) address problem gambling; and 3) improve public health and safety in communities adjacent to Indian land. Grants can be multi-year and used to secure bonds and other financing. The tribe providing the funding shall approve all grants in advance.
- d. Secure the RSTF's Solvency.
- III. Extend the term to 30 years from the effective date with an automatic extension provision similar to other state compacts, thereby allowing time for adequate planning and financing of substantial capital investments.
- IV. Eliminate Compact Section 11.2.1(c), which is inconsistent with and undermines the government to government dispute resolution process carefully crafted in Compact Section 9.
- V. Include amendments that allow TGAs to accept Gaming Resource Suppliers with valid active licenses in other acceptable jurisdictions.
- VI. Include amendments that recognize tribal forums as the appropriate venues for resolution of patron disputes and damage claims for injuries to persons and property in connection with the operation of tribal gaming facilities. Although existing Section 10.2(d) as modified by Modification No. 6 has worked well, such an amendment would recognize that tribal governments have the ability and right to justly adjudicate patron disputes and damage claims, and thus that provisions for *de novo* arbitration of such matters are neither necessary nor appropriate.
- VII. Amend the Definition of Net Win.
- VIII. Technical Amendments: The Tribes are open to technical corrective amendments that do not substantially alter the terms of the 1999 compacts.

*Adopted by membership*

*June 23, 2011*

*Re-affirmed by a unanimous vote October 20, 2016*

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