

Senators Kuipers, Garcia, Van Woerkom, Brown, Birkholz, Sikkema, Sanborn, Cropsey, Hardiman, Cassis and Stamas offered the following concurrent resolution:

**Senate Concurrent Resolution No. 9.**

A concurrent resolution to oppose the approval of any new tribal-state gaming compacts.

Whereas, In spite of the existence of tribal gaming facilities in several areas of our state, the process of negotiating, approving, and implementing tribal-state gaming compacts remains embroiled in controversy. There are many legal questions that are still unanswered, including new questions involving land claims of a Michigan tribe; and

Whereas, Actions in the final hours of the Ninety-first Legislature with regard to a compact for the Gun Lake Band of Pottawatomi Indians in Allegan County did little but raise additional concerns. These concerns include determining the rights of local communities; and

Whereas, Neither the executive nor the legislative branches of the federal government has yet clearly defined how to resolve disputes between states and Indian tribes over gaming compacts; and

Whereas, The United States Supreme Court's decision in *Seminole Tribe of Florida v Florida* upheld the Eleventh Amendment and made unenforceable the right of tribal governments to bring suits against states in federal court for failure to negotiate in good faith; and

Whereas, Nothing exists in the federal Indian Gaming Regulatory Act of 1988 that bestows the Secretary of the Interior with the authority to allow tribal operation of Class III gaming and bypass the compact-development process established by law; and

Whereas, A key point in the litigation that has taken place to date is the question of how the legislature approves tribal-state gaming compacts. In November 2002, the Michigan Court of Appeals ruled on the question of whether approval can be by resolution instead of by bill. However, given the earlier Circuit Court ruling and given the significant differences between the requirements for a bill and a resolution, appeal on this crucial question seems likely; and

Whereas, Approval of any new gaming compacts would be premature until all pending litigation is resolved; and

Whereas, Apart from the formidable legal questions of authority involved, the issue of determining the location and operation of any major gaming facility ought to include the significant input and approval of the local area community; now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That we oppose the approval of any new tribal-state gaming compacts until all pending court cases have been decided; and be it further

Resolved, That copies of this resolution be transmitted to the Office of the Governor and the United States Secretary of the Interior.