



United States Department of the Interior



OFFICE OF THE SECRETARY
Washington, DC 20240

JUN 02 2006

Honorable Ivan Posey
Chairman, Eastern Shoshone Tribe
14 North Fork Road
Fort Washakie, Wyoming 82514

Dear Chairman Posey:

On April 21, 2006, we received the Gaming Compact between the Eastern Shoshone Tribe of the Wind River Reservation (Tribe) and the state of Wyoming (State). We have completed our review of this Compact and conclude that it does not violate the Indian Gaming Regulatory Act of 1988 (IGRA), Federal law, or our trust responsibility. Therefore, pursuant to my delegated authority and Section 11 of IGRA, we approve the Compact. This Compact shall take effect when the notice of our approval pursuant to Section 11(d)(3)(B) of IGRA, 25 U.S.C. § 2710(d)(3)(B), is published in the Federal Register.

We wish the Tribe and the State success in their economic venture.

Sincerely,

Acting Deputy Assistant Secretary
for Policy & Economic Development

Enclosure

Identical Letter Sent to: Honorable Dave Freudenthal
Governor, State of Wyoming

GAMING COMPACT

BETWEEN THE

**EASTERN SHOSHONE TRIBE
OF THE WIND RIVER RESERVATION**

and

THE STATE OF WYOMING

**CLASS III GAMING COMPACT BETWEEN THE EASTERN
SHOSHONE TRIBE OF THE WIND RIVER RESERVATION
AND THE STATE OF WYOMING**

Whereas, the Eastern Shoshone Tribe of the Wind River Reservation a/k/a Eastern Shoshone (hereinafter the "Tribe") is a federally recognized Indian Tribe, and its governing body, the Eastern Shoshone General Council, has authorized the Shoshone Business Council Chairman to enter into contracts and agreements with the State; and

Whereas, Congress has enacted the Indian Gaming Regulatory Act of 1988, 25 U.S.C. § 2701 *et seq.* ("IGRA"), which permits Indian tribes to operate Class III gaming activities on Indian lands pursuant to a Tribal-State Gaming Compact, or pursuant to Procedures issued by the Secretary of the Interior; and

Whereas, the Tribe proposes to operate Class III gaming on Indian lands in the State of Wyoming; and it has adopted a Tribal Gaming Ordinance regulating said gaming; and

Whereas, the Tenth Circuit Court of Appeals has ruled that the State presently permits the operation of "any game, wager or transaction" pursuant to "WYO. STAT. § 6-7-101 (a)(iii)(E) and that the Northern Arapaho Tribe can operate a Class III casino on the Wind River Indian Reservation; and

Whereas, the Secretary of the Interior has issued Class III Gaming Procedures to the Northern Arapaho Tribe, pursuant to which the Northern Arapaho Tribe may operate Class III gaming without State oversight or participation; and

Whereas, the Eastern Shoshone Tribe should have the same opportunities as the Northern Arapaho Tribe to utilize Class III gaming as a form of economic development; and

Whereas, the Tribe has requested the State to enter into a Class III gaming Compact pursuant to 25 U.S.C. § 2710(d); and

Whereas, it is in the best interests of the Tribe and the State to reach a mutual agreement on the Tribe's operation of Class III gaming, rather than engaging in litigation or obtaining Class III gaming procedures from the Secretary of the Interior; and

Whereas, the signatories of this compact, on behalf of the Eastern Shoshone Tribe and the executive branch of the government of Wyoming, jointly acknowledge and respect the sovereignty of the Tribe and State as well as the dual citizenship enjoyed by enrolled members of the Tribe; and

Whereas, net revenues from tribal gaming are required to be used for, *inter alia*, funding tribal government operations or programs, such as education, law enforcement, tribal courts, health care, social services, and infrastructure improvement; and

Whereas, the Tribe and the State have reached an agreement on the terms of a Class III gaming Compact, which are contained herein;

Now Therefore, the Tribe and the State agree as follows:

I. DEFINITIONS

For purposes of this Compact:

A. "Act" and "IGRA" mean the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 *et seq.*

B. "Calcutta wagering" is a form of pari-mutuel wagering.

C. "Class I gaming" shall have the meaning set forth in IGRA at 25 U.S.C. § 2703(6).

D. "Class II gaming" shall have the meaning set forth in IGRA at 25 U.S.C. § 2703(7).

E. "Class ID gaming" shall have the meaning set forth; in IGRA at 25 U.S.C. § 2703(8).

F. "Complimentary services" means the provision to a patron of a gaming facility or such patron's guest, either free of charge or at a reduced price, of any goods or services including transportation, lodging, meals, beverages, and coupons or other representations of money for use in wagering.

G. "Contest of skill" means any contest or game involving the use of skill, including strategy or dexterity, in which awards are made only to entrants or owners of entries and which can be played with or without a video facsimile, electronic game or amusement device so long as such device is not expressly prohibited by this Compact. "Contests of skill" include, without limitation: poker, cribbage, chess, checkers, bowling, targeting-shooting, and ring-toss.

H. "Gaming" means all Class III gaming activities permitted under this Compact. "Gaming" does not include Class I or Class II gaming.

I. "Gaming Floor" means the area of a gaming premise where patrons engage in Class III gaming and does not include any areas used for accounting, maintenance, surveillance, security, administrative offices, storage, cash or cash counting, records, food service, lodging, or entertainment.

J. "Indian" means all persons of Indian descent who are members of any recognized Indian tribe now under Federal jurisdiction, and all persons who are descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation, and shall further include all other persons of one-half or more Indian blood.

K. "Indian lands" means "Indian lands" as defined by IGRA, 25 U.S.C. § 2703(4).

L. "MICS" means the Minimum Internal Control Standard as set forth in 25 C.F.R. § 542, including future amendments.

M. "National Indian Gaming Commission" or "NIGC" shall mean the National Indian Gaming Commission established pursuant to the Indian Gaming Regulatory Act.

N. "Parimutuel wagering" means a mutual stake or wager on any event or game not otherwise prohibited by this Compact in which those who bet share the total stakes, less a percent paid to the management, that is not specifically prohibited by 28 U.S.C. § 3702 *et seq.* Parimutuel wagering includes "calcutta wagering."

O. "Patron" means a person who is within a gaming facility or is on the business premises of a gaming facility and who is not an on-duty employee or official of the gaming facility, the Eastern Shoshone Gaming Commission, or the United States.

P. "Premise" means a structure of facility that is clearly defined and that has a public external entrance, leading to a street or other area accessible to the general public.

Q. "Pull-tabs" means a game in which players purchase numbers or symbols, the winning numbers or symbols are determined randomly in advance of play, and the probability for a win is equal for each player.

R. "Raffle" means a game in which players purchase numbers, the winning numbers are determined randomly, and the probability for a win is equal for each player and determined by the total amount of numbers purchased. "Raffle" is one form of lottery, but the term does not mean or include other forms of lotteries.

S. "Secretary" means the Secretary of the Interior, or the Secretary's designee.

T. "Slot machine" or "gaming machine" means an electronic or electromechanical machine which contains a microprocessor with random number generator capability which allows a player to play games of chance, some of which may be affected by skill, which machine is activated by the insertion of a coin, token or cash or by the use of a credit, and which awards game credits, cash, tokens or replays, or a written statement of the player's accumulated credits, which written statements may be redeemable for cash. Such terms do not include electronic, computer or other technological aids or electronic or electromechanical facsimiles of games.

U. "State" means the State of Wyoming, its authorized officials, agents and representatives.

V. "Tribe" means the Eastern Shoshone Tribe, a/k/a the Shoshone Tribe of the Wind River Reservation, Wyoming, including any agency, organization, subdivision, or public entity controlled by the Tribe.

W. "Tribal law" and "Tribal regulation" mean the laws and regulations of the Eastern Shoshone Tribe in effect and as hereafter amended and include published decisions of the Eastern Shoshone Gaming Commission or the Tribal Court interpreting the laws and regulations of the Tribe.

X. "Tribal member" means an enrolled member of the Tribe.

Y. "United States Court" means any federal district court, federal of appeals or the United States Supreme Court.

Z. "Wyoming law" and "State law" mean the Constitution and laws of the State and Wyoming Statutes as they are in effect at the time of the signing of this Compact and as hereafter amended, and includes published court decisions of the Wyoming Supreme Court interpreting that Constitution and those statutes.

II. AUTHORIZED CLASS III GAMING

A. Authorized Class III Gaming Activities. Subject to the terms and conditions of this Compact, the Tribe is authorized to offer or operate the following Class III gaming activities without regard to the restrictions on such activities which may be otherwise applicable to other entities or persons engaged in gaming outside the Reservation under Wyoming law:

1. Pull-tabs
2. Raffles
3. Wagering on contests of skill, speed, strength or endurance
4. Calcutta wagering
5. Parimutuel wagering
6. "Any game wager or transaction" as recognized by the Court in

Northern Arapaho Tribe v. Wyoming, 389 F.3d 1308 (10th Cir. 2004).

In addition to the activities set forth above, the Tribe is authorized to offer or operate any Class III gaming which is permitted in the State, including, without limitation, games or forms of games the State considers to be "bingo" or other Class II gaming but which the Tribe considers to be forms of keno, lotteries, or other Class III gaming so long as the game that is played is a game that is permitted in the State.

B. State Law Limitations on Games Inapplicable. Gaming permitted or conducted under this Compact is subject to the laws of the United States and the Tribe and the terms set forth herein but is not subject to any of the conditions, limitations or definitions otherwise applicable to gaming by other persons or entities outside the Wind River Reservation under Wyoming law.

C. Hosting of Additional Activities. Any game, wager or transaction for social purposes may be conducted at tribal facilities, provided that the Tribe neither conducts nor participates as a player in such games.

III. OPERATION OF GAMING FACILITIES

A. Gaming Premises. The Tribe may operate up to four gaming premises on Indian lands as defined by IGRA, 25 U.S.C. § 2703(4), with an aggregated total Gaming Floor square footage of 69,000 square feet. If the Tribe desires to establish a gaming facility on "Indian Lands" as defined in 25 U.S.C. § 2703(4) held by the United States in trust for the joint benefit of the Northern Arapaho and Eastern Shoshone Tribes, the written concurrence of each Tribe is a necessary condition for the use of such Indian Lands for a gaming facility.

B. Notice of Gaming Rules. A summary of the rules of each game relevant to the play of the game and the odds paid on winning wagers shall be conspicuously posted or be readily available in pamphlet or electronic form in the portion of the gaming facility in which gaming activities are conducted. The Tribe shall furnish the NIGC a written copy of the full rules applicable to all games operated by the Tribe and of the odds paid on winning wagers. The Tribe shall notify the NIGC of any change in the rules of any games within ten (10) days of such change.

C. Resolution of Gaming Disputes. Gaming disputes shall be resolved in accordance with applicable provisions of the Eastern Shoshone Gaming Code, tribal law, and tribal regulations, which shall continue to provide for a decision by a person or entity separate from the person(s) who made the initial decision and posting of conspicuous notice of the process for resolving a payment dispute in the portion of the gaming facility in which gaming activities are conducted.

D. Complimentary Services. The Tribe may offer complimentary goods or services in connection with its gaming activities. Any alcohol service provided or authorized by the Tribe shall comply with all applicable federal law, including 18 U.S.C. § 1161.

E. Employee Identification. The Tribe shall require all on-duty employees on the gaming floor or who serve patrons in gaming facilities to wear conspicuous identification cards or badges issued by the Tribe that include the employee's photograph, first name, employee number, and tribal seal or signature. This provision shall not apply to employees assigned to covert compliance duties, who shall only be required to have on their person an identification badge.

F. Minors. The Tribe shall prohibit any patron under the age of 18 from engaging either directly or indirectly in any wagering or gaming activity, or loitering in or about any portion of the gaming facility which is used for gaming activities.

G. Contracted Entities. When the Tribe contracts with any organization, entity or individual to conduct any operation the Tribe is authorized or required to perform pursuant to this compact, the Tribe shall ensure that such organization, entity or individual fulfills all obligations imposed upon the Tribe by this agreement with respect to such operations.

H. Notice. The Tribe shall post or provide in the portion of the gaming facility in which gaming activities are conducted conspicuous notice regarding patron disputes, injuries, and employee rights which includes language in substantial conformance with the sample notice set forth in the attached Appendix F.

IV. REGULATION OF GAMING

A. Tribal and State Jurisdiction. The Tribe shall have jurisdiction, subject to any concurrent jurisdiction of the United States, to regulate Class III gaming on its Indian lands. The state shall have no jurisdiction regarding any gaming addressed or regulated by IGRA. NIGC shall have such enforcement authority over breaches of this Compact as is provided in the Act.

B. Maintenance of Integrity of Gaming. Maintaining the honesty, integrity, fairness and security of the Tribe's Class III gaming is essential both to the success of the enterprise and to satisfy the desires of the Tribe.

C. Tribal Responsibilities. Decisions by the Tribe, the Eastern Shoshone Gaming Commission and the management of the gaming facility concerning the Tribe's Class III gaming operations shall be consistent with each of the following principles:

- 1. All decisions concerning gaming operations and the operation of the Tribe's gaming facility shall reflect the particularly sensitive nature of a gaming operation.**
- 2. The Tribe shall work diligently and take all reasonably necessary affirmative steps to prevent cheating and theft, and to protect the gaming operations from the influence of or the control by any form of criminal activity or organization.**
- 3. The honesty, integrity, fairness and security of the Tribe's gaming operation shall be of paramount consideration in awarding contracts, licensing and hiring employees, and in making other business decisions concerning the operation of the gaming enterprise.**
- 4. The Tribe's regulation and operation of its Class III gaming activities shall be at a minimum consistent with generally accepted industry standards and practices, in order to maintain the honesty, integrity, fairness and security of the Tribe's Class III gaming activities.**
- 5. The Tribe's regulation of gaming on its Indian lands assists in realizing the objectives of tribal economic self-sufficiency and self-determination.**
- 6. The Tribe shall have exclusive authority and the duty to enact and enforce statutes, ordinances, administrative rules, guidelines and administrative procedures regarding gaming under these procedures and to impose taxes, fees, assessments and penalties upon and to license persons and entities participating in its gaming operations.**
- 7. No statute, ordinance, administrative rule, guideline or administrative procedure of the State shall affect or control any aspect of the Tribe's gaming operations except as might be relevant pursuant to Section XI (Amendments) of this Compact.**

D. Gaming Code and Self-Regulation. The Tribe has adopted, and the NIGC has approved, the Eastern Shoshone Tribe Gaming Code, attached hereto as Appendix A, which shall serve as the governing code for the regulation of the Tribe's Class III gaming except to the extent that this Compact or federal law expressly provide otherwise. The Tribe shall apply to the NIGC for a Certificate of Self Regulation within four years of the commencement of gaming activities under this Compact, pursuant to 25 U.S.C. § 2710(c)(4).

E. Amendments to Gaming Code. The Tribe shall submit any modification of its gaming code, or any ordinance or resolution governing Class III gaming to the NIGC Chairman pursuant to 25 U.S.C. § 2712.

F. Internal Controls. The Tribe has adopted MICS and shall maintain minimum internal control standards which are consistent with or more stringent than applicable federal standards.

G. Cash Transaction Reporting. The Tribe shall comply with all applicable federal reporting requirements under the Bank Secrecy Act and all other applicable federal laws.

H. Minimum Bankroll. The Tribe shall maintain cash or cash equivalents in an amount sufficient to meet its obligations for wins in compliance with the MICS.

I. Log of Unusual Occurrences. The Tribe shall establish procedures to ensure that all unusual occurrences within the gaming facility are recorded in indelible ink in a bound notebook from which pages cannot readily be removed, each side of each page of which is sequentially numbered, the assigned sequential number of the incident, the date, time and nature of the incident, the people involved in the incident and the security employee making the entry into the log.

J. NIGC Access. NIGC shall have such access to inspect the Tribe's gaming facility and gaming records for the purpose of determining the Tribe's compliance with the terms of this Compact, including any federal or tribal law incorporated herein by reference, as is permitted by the Act.

K. Inspections. To the extent required by the Act or regulations promulgated pursuant, hereto, NIGC field investigators shall present proper identification and immediately notify the managerial employee of his or her presence upon arrival at a gaming facility or gaming support facility, if practicable.

L. Audits and Compliance Reviews. The Tribe shall annually have an audit conducted of its gaming operations and associated financial statements which shall be done

by a certified public accountant in accordance with generally accepted accounting principles and with the MICS.

M. Licensing Standards. The Tribe shall adhere to and enforce the requirements and standards in the Act, in the MICS and in applicable portions of the Tribe's Gaming Code regarding background checks and licensing standards for gaming employees and contractors.

N. NIGC Recommended Accounting Standards. The Tribe shall comply with the Recommended Accounting Standards of the NIGC currently in effect, attached hereto as Appendix B, or as hereafter amended from time to time by the NIGC.

O. Regulations. The Tribe shall comply in all material respects with or exceed standards set forth in the Gaming Regulations attached as Exhibit C, or as hereafter amended from time to time by the Eastern Shoshone Gaming Commission. The Tribe also shall comply in all material respects with or exceed applicable standards set forth in the attached Appendix D, which shall be promulgated by the Tribe as regulations within 180 days of the approval of this Compact by the Secretary. Amendments to the Tribe's Gaming Regulations, including those in Appendices C and D, do not require approval by the NIGC or the Secretary so long as such amendments refine, clarify, increase standards, delete inapplicable standards, or add new standards which comply with applicable federal law, federal regulations, and this Compact.

P. Governmental Service Provision. The Tribe and State shall jointly facilitate ongoing meetings with the surrounding municipal and county governments for the purpose of anticipating and/or resolving issues relative to adequate and equitable governmental services to citizens of the state and members of the Tribe.

Q. Regulatory Reports. The Eastern Shoshone Tribe and the NIGC shall provide any and all regulatory and compliance reports created by the Tribe and or NIGC to the State of Wyoming.

V. PUBLIC HEALTH AND SAFETY

A. Uniform Construction Codes. The Tribe shall establish for its gaming facilities and gaming support facilities health, safety, and construction standards that are at least as stringent as the current editions of the National Electrical Code, the 1997 Uniform Building Code, the Uniform Mechanical Code, the 1997 Uniform Fire Code and the Uniform Plumbing Code, and each gaming facility constructed by or for the Tribe hereafter shall be constructed and all facilities shall be maintained so as to comply with such standards. The Tribe will conduct such inspections of such maintenance at least annually and the NIGC shall

have access to reports of inspection and corrections pursuant to the "NIGC Access" section of this Compact. The Tribe shall correct any deficiencies noted in such inspections within a time agreed upon between the NIGC and Tribe.

B. N.E.P.A. The Tribe shall comply with any applicable provisions of the National Environmental Policy Act (N.E.P.A.).

C. Food and Beverage Service. The Tribe shall establish and maintain for its gaming facilities standards for food and beverage handling that are at least as stringent as the United States Public Health Service Requirements, which are incorporated by reference and attached hereto as Appendix E.

D. Americans with Disabilities Act. All construction of any new gaming facility shall comply with the building standards set forth in the Americans with Disabilities Act, P.L. 101-336, 42 U.S.C. § 12101 *et seq.*

E. Emergency Access. The Tribe shall make provision for adequate access by emergency vehicles and personnel to any gaming facilities and shall provide ready access for employees, patrons, and other individuals on or near such facilities to a means of contacting emergency agencies such as by a "911" number.

F. Insurance. The Tribe shall maintain in effect policies of public liability insurance, insuring the Tribe, its agents, employees, agencies, organizations and subdivisions against claims for damages resulting from bodily injury, wrongful death or property damages caused by the negligence of tribal employees while acting within the scope of their duties in the operation or maintenance of its gaming facilities in the amount of One (1) Million per occurrence and Five (5) Million annual aggregate. Each year, the amount of coverage shall increase or decrease based on adjustments in the Consumer Price Index. The Tribe shall require its insurer to covenant not to decline to indemnify or defend on the basis of sovereign immunity, so long as the claim is within policy limits; provided, however, that the provisions of this sentence shall not apply to claims for damages caused by (1) a defect in the plan or design of any bridge, culvert, highway, roadway, street, alley, sidewalk or parking area; (2) the failure to construct or reconstruct any bridge, culvert, highway, roadway, street, alley, sidewalk, or parking area; or (3) the maintenance, including maintenance to compensate for weather conditions of any bridge, culvert, highway, roadway, street, alley, sidewalk or parking area. The Tribe shall provide the NIGC annually a certificate of insurance showing the coverage set forth in this section. Nothing herein shall prevent the Tribe from providing insurance in additional amounts or for additional coverage, in its sole discretion.

VI. PROTECTION OF EMPLOYEES

The Tribe shall not discriminate in the employment of persons to work for its gaming operations on grounds of race, ethnicity, national origin, gender or age, provided that nothing herein shall be interpreted to prevent the Tribe from granting preference; in hiring, retention, and promotion to members of the Tribe in accordance with tribal law. The Tribe shall operate its gaming facilities under standards which protect the safety and ensure the fair treatment of its employees which are at a minimum consistent with principles set forth in the federal Fair Labor Standards and Occupational Safety and Health Acts.

VII. TERM

This Compact shall take effect as provided by the Act and shall remain in effect for twenty (20) years from such effective date. The term of this Compact may be extended for any period to which the Tribe and the State of Wyoming agree. This Compact may be voluntarily terminated by mutual agreement of the Tribe and the State of Wyoming or by a duly adopted ordinance or resolution of the Tribe revoking the authority to conduct Class III gaming upon the Tribe's lands, as provided in the Act, 25 U.S.C. § 2710(d)(2)(D).

VII. THIRD-PARTY RIGHTS

Nothing in this Compact shall be construed to provide standing or rights to any person or entity other than the Tribe or the United States or the State of Wyoming to bring an action for enforcement of the terms of this Compact.

IX. EXPANSION OR CONTRACTION OF CLASS III GAMING

Court Decision on Class III Gaming. The Tribe shall adhere to any final judgment of a United States Court of competent jurisdiction which expands, restricts or otherwise affects the scope of gaming conducted pursuant to this Compact. The judgment shall be final when all avenues of appeal or stay from said judgment provided by the Federal Rules of Appellate Procedure have been exhausted or extinguished by operation of said rules.

X. RESERVATION OF RIGHTS

A. Reservation of Rights. This Compact was entered into pursuant to IGRA and may not be used or construed by either party against the other party at any time to prejudice any other negotiations between the parties, nor shall it be used against either party in future litigation, arbitration, or mediation with respect to such other negotiations, arising therefrom. The Tribe reserves the right to participate in any lawsuit filed by any entity or to

pursue any remedies afforded by IGRA, including any action filed to determine the type of Class III gaming permitted under applicable law, or limitations on such gaming.

B. Preservation of Self-Government. Nothing in this Compact shall be construed to divest or diminish the governmental authority of the Tribe. Nothing in this Compact shall be construed to waive any immunity of the Tribe except as specifically waived pursuant to Section V of this Compact.

C. Severability. Each provision of this Compact shall stand separate and independent of every other provision. If a United States Court of competent jurisdiction finds any provision, section, or subsection of this Compact to be invalid, the remaining provisions, sections, and subsections of this Compact shall remain in full force and effect to the fullest extent possible.

D. Interpretation of Compact. The interpretation of the federal statutes and regulations incorporated herein by reference shall comply with established canons of construction applicable to Indian Tribes as a matter of federal law. The construction, interpretation and enforcement of this Compact shall be governed by the laws of the State of Wyoming and federal law.

XI AMENDMENTS

When the Tribe seeks to amend this Compact, it shall submit a request in writing to the State. Any amendment to this Compact or any amendment to the the

Appendices attached hereto that is substantive or material to the Compact shall be approved by the Secretary of the Interior or the NIGC in accordance with IGRA.

ADD SS

[Handwritten signature]
5/19/06

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XII. NOTICES

All notices, requests, reports, information or demands shall be personally delivered, or sent by first class certified, express, or registered United States Mail, postage prepaid, return receipt requested, and delivered or sent to the other at its address as specified below, or such other address as they shall hereafter inform the other hereto by written notice:

To the Tribe:

**Chairman
Eastern Shoshone Tribe
14 North Fork Road
P.O. Box 538
Ft. Washakie, Wyoming 82514**


To the State of Wyoming:

**Governor
Governor's Office
State Capitol
200 West 24th Street Cheyenne,
Wyoming 81002**

IN WITNESS WHEREOF, the Tribal Chairman acting for the Eastern Shoshone Tribe and the Governor acting for the State of Wyoming have hereunto set their hands and seals.

DATE: April 19 2006

BY: 
Ivan Posey, Chairman

DATE: April 19 2006
BY: 
Dave Freudenthal, Governor