

1 SENATE BILL 48

2 **44TH LEGISLATURE - STATE OF NEW MEXICO - 2ND SPECIAL SESSION, 2000**

3 INTRODUCED BY

4 Rod Adair

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10 AN ACT

11 RELATING TO GAMING; REDUCING THE AMOUNT OF REVENUE SHARING
12 FOR CERTAIN TRIBES.

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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 Section 1. Section 11-13-2 NMSA 1978 (being Laws 1997,
16 Chapter 190, Section 2) is amended to read:

17 "11-13-2. REVENUE SHARING OF TRIBAL GAMING REVENUE.--

18 The governor is authorized to execute a revenue-sharing
19 agreement in the form substantially set forth in this section
20 with any New Mexico Indian nation, tribe or pueblo that [~~has~~
21 ~~also~~], prior to the effective date of this section, has
22 entered into an Indian gaming compact as provided by law and
23 has paid all money owed to the state pursuant to a revenue-
24 sharing agreement entered into between the state and the
25 tribe or that has neither executed an Indian gaming compact
nor revenue-sharing agreement as of January 1, 2000.

Execution of an Indian gaming compact is conditioned upon

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1 execution of a revenue-sharing agreement. The consideration
2 for the Indian entity entering into the revenue-sharing
3 agreement is the condition of the agreement providing limited
4 exclusivity of gaming activities to the tribal entity. The
5 revenue-sharing agreement shall be in substantially the
6 following form and is effective when executed by the governor
7 on behalf of the state and the appropriate official of the
8 Indian entity:

9 "REVENUE-SHARING AGREEMENT

10 1. Summary and consideration. The Tribe shall agree to
11 contribute a portion of its Class III Gaming revenues
12 identified in and under procedures of this Revenue-Sharing
13 Agreement, in return for which the State agrees that the
14 Tribe:

15 A. has the exclusive right within the State to
16 provide all types of Class III Gaming described in the Indian
17 Gaming Compact, with the sole exception of the use of Gaming
18 Machines, which the State may permit on a limited basis for
19 racetracks and veterans' and fraternal organizations; and

20 B. will only share that part of its revenue
21 arising from the use of Gaming Machines and all other gaming
22 revenue is exclusively the Tribe's.

23 2. Revenue to State. The parties agree that, after the
24 effective date hereof, the Tribe shall make the quarterly
25 payments provided for in Paragraph 3 of the Revenue Sharing
Agreement to the state treasurer for deposit into the General
Fund of the State ("State General Fund").

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1 3. Calculation of Revenue to State.

2 A. As used in this Revenue-Sharing Agreement, "net
3 win" means the annual total amount wagered at a Gaming
4 Facility on Gaming Machines less the following amounts:

5 (1) the annual amount paid out in prizes
6 from gaming on Gaming Machines;

7 (2) the actual amount of regulatory fees
8 paid to the state; and

9 (3) the sum of two hundred fifty thousand
10 dollars (\$250,000) per year as an amount representing tribal
11 regulatory fees, with these amounts increasing by five
12 percent (5%) each year beginning on the first day of January
13 occurring after the Compact has been in effect for at least
14 twelve months.

15 B. The Tribe shall pay the state [~~sixteen percent~~
16 ~~(16%)~~] three percent (3%) of the net win until its compact
17 expires or is renegotiated.

18 C. For purposes of these payments, all
19 calculations of amounts due shall be based upon the quarterly
20 activity of the gaming facility. Quarterly payments due to
21 the State pursuant to these terms shall be paid no later than
22 twenty-five (25) days after the last day of each calendar
23 quarter. Any payments due and owing from the Tribe in the
24 quarter the Compact is approved, or the final quarter the
25 Compact is in force, shall reflect the net win, but only for
the portion of the quarter the Compact is in effect.

4. Limitations. The Tribe's obligation to make the

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1 payments provided for in Paragraphs 2 and 3 of this section
2 shall apply and continue only so long as there is a binding
3 Indian Gaming Compact in effect between the Tribe and the
4 State, which Compact provides for the play of Class III
5 Gaming, but shall terminate in the event of any of the
6 following conditions:

7 A. If the State passes, amends, or repeals any
8 law, or takes any other action, which would directly or
9 indirectly attempt to restrict, or has the effect of
10 restricting, the scope of Indian gaming.

11 B. If the State permits any expansion of nontribal
12 Class III Gaming in the State. Notwithstanding this general
13 prohibition against permitted expansion of gaming activities,
14 the State may permit: (1) the enactment of a State lottery,
15 (2) any fraternal, veterans or other nonprofit membership
16 organization to operate [~~such electronic gaming devices~~]
17 gaming machines lawfully, but only for the benefit of such
18 organization's members, (3) limited fundraising activities
19 conducted by nonprofit tax exempt organizations pursuant to
20 Section 30-19-6 NMSA 1978, and (4) any horse racetracks to
21 operate [~~electronic gaming devices~~] gaming machines on days
22 on which live or simulcast horse racing occurs.

23 5. Effect of Variance. In the event the acts or
24 omissions of the State cause the Tribe's obligation to make
25 payments under Paragraph 3 of this section to terminate under
the provisions of Paragraph 4 of this section, such cessation
of obligation to pay will not adversely affect the validity

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1 of the Compact, but the amount that the Tribe agrees to
2 reimburse the State for regulatory fees under the Compact
3 shall automatically increase by twenty percent (20%).

4 6. Third-Party Beneficiaries. This Agreement is not
5 intended to create any third-party beneficiaries and is
6 entered into solely for the benefit of the Tribe and the
7 State."."