

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 419

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

James Roger Madalena

AN ACT

RELATING TO TRIBAL-STATE GAMING COMPACT REGULATORY FEES AND
REVENUE-SHARING AGREEMENTS; AUTHORIZING WORDING FOR A
SUPPLEMENT; REVISING THE REVENUE-SHARING PROVISIONS;
CLARIFYING MECHANISMS OF DISPUTE RESOLUTION; AMENDING AND
ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. A supplemental section of the Indian Gaming
Compact, Section 11-13-1.1 NMSA 1978, is enacted to read:

"11-13-1.1. [NEW MATERIAL] INDIAN GAMING COMPACT
SUPPLEMENT AUTHORIZED. --The governor of the state upon written
request from an Indian nation, tribe or pueblo located in
whole or in part in the state that has entered into an Indian
Gaming Compact in the form set forth in Section 11-13-1 NMSA
1978 is authorized to execute a supplement to the existing

underscored material = new
[bracketed material] = del ete

underscored material = new
[bracketed material] = delete

1 Indian Gaming Compact in the form set forth in this section.
2 The Supplement to the Indian Gaming Compact shall be effective
3 when executed by the governor of the state on behalf of the
4 state and the appropriate official of the Indian nation, tribe
5 or pueblo, and approved pursuant to the federal Indian Gaming
6 Regulatory Act and shall be in substantially the following
7 form:

8 "SUPPLEMENT TO THE INDIAN GAMING COMPACT

9 SECTION 1. Maximum regulatory fee payment. On and after
10 the effective date of this Supplement to the Indian Gaming
11 Compact that was entered into between the State of New Mexico
12 and the _____ on
13 the _____ day of _____, 199____, and
14 that took effect on the _____ day of _____
15 _____, 199____, and notwithstanding anything to the
16 contrary contained in Paragraph 5 of Subsection E of SECTION 4
17 or any other provision of that Indian Gaming Compact, the
18 maximum and only amount that the Tribe shall be required to
19 pay the State in any State fiscal year as reimbursement of
20 costs the State incurs in carrying out the regulatory
21 functions authorized by the terms of the Indian Gaming Compact
22 is the actual amount of expenses incurred by the State during
23 the preceding fiscal year, as shown by an accounting of the
24 expenses provided by the State to the Tribe within ninety (90)
25 days following the end of the fiscal year.

. 126161. 4

underscored material = new
[bracketed material] = delete

1 SECTION 2. Tribal payment of total State regulatory
2 costs required. The tribe shall pay the State the full amount
3 shown by the accounting provided by the State within thirty
4 (30) days of receiving the accounting from the State. If the
5 Tribe raises a question as to the amount that cannot be
6 resolved informally by the parties, the Tribe may invoke the
7 dispute resolution procedures of SECTION 7 of the Compact to
8 resolve the dispute.

9 SECTION 3. Tribal regulatory fee payments limited to
10 payment required in this Supplement. Except as expressly
11 provided in this Supplement to the Indian Gaming Compact, the
12 Tribe shall not be required to pay the State any additional
13 sum as reimbursement of costs incurred by the State.

14 SECTION 4. Extension of Compact Terms. Notwithstanding
15 any provisions in the Indian Gaming Compact to the contrary,
16 upon the approval of this Supplement to the Indian Gaming
17 Compact, the term of the Indian Gaming Compact shall be
18 extended beyond its expiration date by an additional three
19 years. "

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

22 "11-13-2. REVENUE SHARING OF TRIBAL GAMING REVENUE. --The
23 governor is authorized to execute a revenue-sharing agreement
24 in the form substantially set forth in this section with any
25 New Mexico Indian nation, tribe or pueblo that has also

underscored material = new
[bracketed material] = delete

1 entered into an Indian gaming compact as provided by law.
2 Execution of an Indian gaming compact, as set forth in Section
3 11-13-1 NMSA 1978, is conditioned upon the tribe's execution
4 of a revenue-sharing agreement [~~the consideration for the~~
5 ~~Indian entity entering into the revenue-sharing agreement is~~
6 ~~the condition of the agreement providing limited exclusivity~~
7 ~~of gaming activities to the tribal entity] as provided in this
8 section. The revenue-sharing agreement shall be in
9 substantially the following form and is effective when
10 executed by the governor on behalf of the state and the
11 appropriate official of the Indian entity and approved
12 pursuant to the federal Indian Gaming Regulatory Act :~~

13 "REVENUE-SHARING AGREEMENT

14 SECTION 1. Summary and consideration. The Tribe shall
15 [~~agree to contribute~~] pay to the state a portion of its Class
16 III Gaming revenues identified in [~~and under~~] the procedures
17 of this Revenue-Sharing Agreement, in return for which the
18 State agrees that the Tribe:

19 A. [~~has~~] shall have the exclusive right within the
20 State to [~~provide all~~] conduct the types of Class III Gaming
21 described in the Indian Gaming Compact, with the sole
22 exception of the [~~use~~] operation of Gaming Machines, which the
23 State may permit on a limited basis [~~for~~] to be operated by
24 racetracks and veterans' and fraternal organizations; and

25 B. will only [~~share that part of its revenue~~

underscored material = new
[bracketed material] = delete

1 ~~arising~~ be required to pay to the State a portion of its
2 revenues derived from the [use] operation of Gaming Machines
3 and all other [gaming] revenue received by the Tribe from its
4 gaming activities is exclusively the Tribe's.

5 SECTION 2. Revenue to State. The parties agree that,
6 after the effective date ~~[hereof]~~ of this Revenue-Sharing
7 Agreement, the Tribe shall make the quarterly payments
8 provided for in ~~[Paragraph]~~ SECTION 3 of the Revenue-Sharing
9 Agreement to the state treasurer for deposit into the State
10 General Fund ~~[of the State ("State General Fund")]~~.

11 SECTION 3. Calculation of Revenue to State.

12 A. As used in this Revenue-Sharing Agreement, "net
13 win" means the ~~[annual]~~ total amount wagered at a Gaming
14 Facility on Gaming Machines less the following amounts:

15 (1) the ~~[annual]~~ amount paid out in prizes
16 from gaming on Gaming Machines;

17 (2) the actual amount of regulatory fees paid
18 to the state; and

19 (3) the sum of ~~[two hundred fifty thousand~~
20 ~~dollars (\$250,000) per year]~~ sixty-two thousand five hundred
21 dollars (\$62,500) per quarter as an amount representing tribal
22 regulatory ~~[fees, with these]~~ cost, which amounts ~~[increasing]~~
23 shall increase by five percent (5%) each year beginning on the
24 first day of January occurring after the Compact has been in
25 effect for at least twelve months.

underscored material = new
[bracketed material] = delete

1 B. The Tribe shall pay the state: [~~sixteen percent~~
2 ~~(16%) of the net win]~~

3 (1) two percent (2%) of the first one million
4 dollars (\$1,000,000) of the Tribe's net win in each calendar
5 quarter;

6 (2) four percent (4%) of the second one
7 million dollars (\$1,000,000) of the Tribe's net win in each
8 calendar quarter; and

9 (3) six percent (6%) of the Tribe's net win
10 in excess of two million dollars (\$2,000,000) in each calendar
11 quarter.

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

21 SECTION 4. Limitations. The Tribe's obligation to make
22 the payments provided for in [~~Paragraphs]~~ SECTIONS 2 and 3 of
23 [~~this section]~~ the Revenue-Sharing Agreement shall apply and
24 continue only so long as there is a binding [~~Indian Gaming]~~
25 Compact in effect between the Tribe and the State, which

underscored material = new
[bracketed material] = delete

1 Compact provides for the [~~play~~] operation of Class III Gaming
2 by the Tribe, but the Tribe's obligation to make payments
3 shall terminate in the event of any of the following
4 conditions:

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

9 B. if the State permits any expansion of nontribal
10 Class III Gaming in the State; [~~Notwithstanding this general~~
11 ~~prohibition against permitted expansion of gaming activities,~~
12 ~~the State may permit~~] provided, however, that none of the
13 following shall be considered an expansion of non-tribal Class
14 III Gaming for purposes of this agreement:

15 (1) the [~~enactment~~] operation of a State
16 lottery;

17 (2) [~~any~~] the licensing of a fraternal,
18 veterans or other nonprofit membership organization to operate
19 [~~such electronic gaming devices~~] Gaming Machines lawfully, but
20 only for the benefit of [~~such~~] the organization's members;

21 (3) limited fundraising activities conducted
22 by nonprofit tax-exempt organizations pursuant to Section
23 30-19-6 NMSA 1978; and

24 (4) [~~any~~] the licensing of horse racetracks
25 to operate [~~electronic gaming devices~~] Gaming Machines on days

underscored material = new
[bracketed material] = delete

1 on which live or simulcast horse racing occurs.

2 ~~[5. Effect of Variance. In the event the acts or~~
3 ~~omissions of the State cause the Tribe's obligation to make~~
4 ~~payments under Paragraph 3 of this section to terminate under~~
5 ~~the provisions of Paragraph 4 of this section, such cessation~~
6 ~~of obligation to pay will not adversely affect the validity of~~
7 ~~the Compact, but the amount that the Tribe agrees to reimburse~~
8 ~~the State for regulatory fees under the Compact shall~~
9 ~~automatically increase by twenty percent (20%).~~

10 ~~6. Third-Party Beneficiaries. This Agreement is not~~
11 ~~intended to create any third-party beneficiaries and is~~
12 ~~entered into solely for the benefit of the Tribe and the~~
13 ~~State.]~~

14 SECTION 5. Definitions. All definitions contained in
15 the Compact shall apply to the terms used in this section and
16 the Revenue-Sharing Agreement.

17 SECTION 6. Dispute Resolution. The dispute resolution
18 provisions of the Compact shall apply to disputes arising
19 under the terms of this section and the Revenue-Sharing
20 Agreement. ". "

21 Section 3. A new Section 11-13-3 NMSA 1978 is enacted to
22 read:

23 "11-13-3. [NEW MATERIAL] RECONCILIATION OF PRIOR
24 REVENUE-SHARING PAYMENTS.

25 A. The governor of the state and the appropriate

underscored material = new
[bracketed material] = delete

1 official of a tribe that has entered into a compact and
2 revenue-sharing agreement with the state shall jointly prepare
3 an accounting of:

4 (1) all amounts paid by the tribe to the
5 state pursuant to the terms of the revenue-sharing agreement
6 that was in effect between the tribe and the state beginning
7 in 1997 and all regulatory fees deducted from the tribe's
8 gaming net win, as defined in Section 11-13-2 NMSA 1978, and
9 regulatory fees due to the state pursuant to the terms of
10 Paragraph 5 of Subsection E of SECTION 4 of the Indian Gaming
11 Compact between the tribe and the state; and

12 (2) the total amount that the tribe would
13 have been required to pay the state had the revenue-sharing
14 agreement amendments of Section 2 of this act become effective
15 on the date that the tribe's Indian Gaming Compact went into
16 effect in 1997, increased by twenty-five thousand dollars
17 (\$25,000) for each calendar year or part of a calendar year
18 that the compact has been in effect.

19 B. If the total amount determined in Paragraph (1)
20 of Subsection A of this section is greater than the amount
21 determined in Paragraph (2) of Subsection A of this section,
22 the tribe shall be entitled to a credit in the full amount of
23 the difference, against future revenue-sharing payments due to
24 the state pursuant to the amended terms of the revenue-sharing
25 agreement adopted in the form set forth in Section 2 of this

underscored material = new
[bracketed material] = delete

1 act. The governor of the state and the appropriate official
2 of the tribe shall execute a credit agreement that shall be
3 deemed part of the revenue-sharing agreement, setting forth
4 the amount of the credit to which the tribe is entitled,
5 stating that the credit shall apply to payments due pursuant
6 to the revenue-sharing agreement until the credit is
7 exhausted, requiring that the tribe continue to submit on a
8 quarterly basis an accounting of the amount of revenue-sharing
9 against which the credit is being taken and the tribe's
10 calculation of the remaining balance on the credit and
11 requiring the tribe to pay to the state the full amount of
12 revenue-sharing due to the state once the credit is exhausted.

13 C. If the total amount determined in Paragraph (1)
14 of Subsection A of this section is less than the amount
15 determined by the terms of Paragraph (2) Subsection A of this
16 section, the governor of the state and the appropriate
17 official of the tribe shall execute a repayment agreement that
18 shall be deemed part of the revenue-sharing agreement. The
19 repayment agreement shall set forth the amount of the deficit
20 owed to the state by the tribe and specify the date by which
21 and the manner in which the tribe shall pay the amount of the
22 deficit. The tribe shall agree to pay the deficit within the
23 two-year period following the date on which Section 2 of this
24 act is executed by the governor of the state and the
25 appropriate official of the tribe. "

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3
4
5
6 February 27, 1999

7
8 Mr. Speaker:

9
10 Your BUSINESS AND INDUSTRY COMMITTEE, to whom has
11 been referred

12
13 HOUSE BILLS 419 AND 615

14
15 has had them under consideration and reports same with
16 recommendation that they DO NOT PASS, but that

17 HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE
18 FOR HOUSE BILLS 419 AND 615

19
20 DO PASS, and thence referred to the JUDICIARY
21 COMMITTEE.

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HBIC/HB 419

Page 12

Respectfully submitted,

Debbie A. Rodella, Chairwoman

Adopted _____

(Chief Clerk)

Not Adopted _____

(Chief Clerk)

Date _____

The roll call vote was 7 For 1 Against

Yes: 7

No: Rodella

Excused: Hanosh, Hobbs

Absent: Kissner, Lutz

J: \99BillsWP\H0419

. 126161. 4

1 HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR
2 HOUSE BILLS 419 & 615
3 **44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999**
4
5
6
7
8

9 AN ACT

10 RELATING TO GAMING; AUTHORIZING WORDING FOR A SUPPLEMENT TO AN
11 INDIAN GAMING COMPACT; REVISING THE REVENUE-SHARING
12 PROVISIONS; CLARIFYING DISPUTE RESOLUTIONS PROVISIONS;
13 AMENDING THE GAMING TAX; AMENDING AND ENACTING SECTIONS OF THE
14 NMSA 1978.

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

16 Section 1. A supplemental section of the Indian Gaming
17 Compact, Section 11-13-1.1 NMSA 1978, is enacted to read:

18 "11-13-1.1. [NEW MATERIAL] INDIAN GAMING COMPACT
19 SUPPLEMENT AUTHORIZED. --

20 A. The governor of the state may enter into an
21 Indian Gaming Compact in the form set forth in Section 11-13-1
22 NMSA 1978 as supplemented by the Supplement to the Indian
23 Gaming Compact set forth in Subsection C of this section upon
24 written request from an Indian nation, tribe or pueblo located
25 in whole or in part in the state that has not entered into a
previous Indian Gaming Compact. Notwithstanding any provision

. 128190. 4

1 of Section 11-13-2 NMSA 1978, an Indian nation, tribe or
2 pueblo is not required to enter into revenue-sharing
3 provisions other than those set forth in the Supplement to the
4 Indian Gaming Compact of Subsection C of this section.

5 B. The governor of the state, upon written request
6 from an Indian nation, tribe or pueblo located in whole or in
7 part in the state that has entered into an Indian Gaming
8 Compact in the form set forth in Section 11-13-1 NMSA 1978, is
9 authorized to execute a supplement to the existing Indian
10 Gaming Compact in the form set forth in Subsection C of this
11 section. The governor has no authority, however, to enter
12 into an agreement in the form set forth in Subsection C of
13 this section with an Indian nation, tribe or pueblo that has
14 an outstanding balance due to the state of money owed pursuant
15 to a revenue-sharing agreement entered into between that
16 Indian nation, tribe or pueblo and the state in 1997; with an
17 Indian nation, tribe or pueblo that has not entered into a
18 payment agreement pursuant to Section 11-13-3 NMSA 1978 if one
19 is required by the provisions of that section; or with an
20 Indian nation, tribe or pueblo that filed a court or
21 arbitration action under the provisions of its Indian gaming
22 compact or revenue-sharing agreement in which there has been
23 no settlement, dismissal or final judgment entered on the
24 action.

25 C. The Supplement to the Indian Gaming Compact or
a new Indian Gaming Compact entered into pursuant to Section
11-13-1 NMSA 1978 and supplemented with the language that
follows shall be effective when executed by the governor of

1 the state on behalf of the state and the appropriate official
2 of the Indian nation, tribe or pueblo, and approved pursuant
3 to the federal Indian Gaming Regulatory Act and shall be in
4 substantially the following form:

"SUPPLEMENT TO THE INDIAN GAMING COMPACT

5 SECTION 1. Maximum Regulatory Fee Payment. On and after
6 the effective date of this Supplement to the Indian Gaming
7 Compact that was entered into between the State of New Mexico
8 and the _____ on
9 the _____ day of _____, 199____, and
10 that took effect on the _____ day of _____
11 _____, 199____, and notwithstanding anything to the
12 contrary contained in Paragraph 5 of Subsection E of SECTION
13 4, SECTION 13 or any other provision of that Indian Gaming
14 Compact or Revenue-Sharing Agreement, the maximum and only
15 amount that the Tribe shall be required to pay the State in
16 any State fiscal year as reimbursement of costs the State
17 incurs in carrying out the regulatory functions authorized by
18 the terms of the Indian Gaming Compact is the actual amount of
19 expenses incurred by the State during the preceding fiscal
20 year, as shown by an accounting of the expenses that shall be
21 provided by the State to the Tribe within ninety (90) days
22 following the end of the fiscal year.

23 SECTION 2. Tribal Payment of Total State Regulatory
24 Costs Required. The tribe shall pay to the State the full
25 amount shown by the accounting provided by the State within
thirty (30) days of receiving the accounting from the State.
If the Tribe raises a question as to the amount that cannot be

underscored material = new
[bracketed material] = delete

1 resolved informally by the parties, the Tribe may invoke the
2 dispute resolution procedures of SECTION 7 of the Indian
3 Gaming Compact to resolve the dispute.

4 SECTION 3. Tribal Regulatory Fee Payments Limited to
5 Payment Required in this Supplement. Except as expressly
6 provided in this Supplement to the Indian Gaming Compact, the
7 Tribe shall not be required to pay the State any additional
8 sum as regulatory fees or as reimbursement of costs incurred
9 by the State.

10 SECTION 4. Consideration, Revenue-Sharing Calculation.

11 A. The Tribe shall agree to contribute to the
12 state a portion of its Class III Gaming revenues, in return
13 for which the State agrees that the Tribe:

14 1. shall have the exclusive right within the
15 State to conduct the types of Class III Gaming described in
16 the Indian Gaming Compact, with the sole exception of the
17 operation of Gaming Machines, which the State may permit on a
18 limited basis to be operated by racetracks and nonprofit
19 organizations; and

20 2. will share with the State that part of its
21 revenues derived from the operation of Gaming Machines and all
22 other revenue received by the Tribe from its gaming activities
23 is exclusively the Tribe's.

24 B. The parties agree that, after the effective
25 date of the Supplement to the Indian Gaming Compact, the Tribe
shall make the quarterly payments and contributions provided
for in Subsection D of this section to the state treasurer for
deposit into the State General Fund.

1 C. As used in the Supplement to the Indian Gaming
2 Compact, "net win" means the total amount wagered at a Gaming
3 Facility on Gaming Machines less the following amounts:

4 1. the amount paid out in prizes from gaming
5 on Gaming Machines;

6 2. the actual amount of regulatory fees paid
7 to the state; and

8 3. the sum of sixty-two thousand five hundred
9 dollars (\$62,500) per quarter as an amount representing tribal
10 regulatory costs, which amount shall increase by five percent
11 (5%) each year beginning on the first day of January occurring
12 after the Indian Gaming Compact has been in effect for at
13 least twelve months.

14 D. The Tribe shall agree to contribute to the
15 state eight percent (8%) of the Tribe's net win in each
16 calendar quarter.

17 E. Quarterly payments due to the State pursuant to
18 these terms shall be paid no later than twenty-five (25) days
19 after the last day of each calendar quarter.

20 SECTION 5. Limitations. The Tribe's obligation to make
21 the payments provided for in SECTION 4 of the Supplement to
22 the Indian Gaming Compact shall terminate in the event of any
23 of the following conditions:

24 A. if the State passes, amends or repeals any law,
25 or takes any other action that would directly or indirectly
attempt to restrict, or has the effect of restricting, the
scope of Indian gaming; or

B. if the State permits any expansion of nontribal

1 Class III Gaming in the State; provided, however, that none of
2 the following shall be considered an expansion of non-tribal
3 Class III Gaming for purposes of this Supplement to the Indian
4 Gaming Compact:

- 5 1. the operation of a State lottery;
- 6 2. the licensing of nonprofit organizations
7 as defined in the Gaming Control Act, to operate Gaming
8 Machines consistent with the level of gaming permitted by the
9 provisions of Section 60-2E-28 NMSA 1978 as enacted in 1997;
- 10 3. limited fundraising activities conducted
11 by nonprofit tax-exempt organizations pursuant to Section
12 30-19-6 NMSA 1978; and
- 13 4. the licensing of horse racetracks to
14 operate Gaming Machines on days on which live or simulcast
15 horse racing occurs consistent with the provisions of Section
16 60-2E-27 NMSA 1978 as enacted in 1997.

17 SECTION 6. Definitions. All definitions contained in
18 the Indian Gaming Compact shall apply to the terms used in the
19 Supplement to the Indian Gaming Compact.

20 SECTION 7. Dispute Resolution. The dispute resolution
21 provisions of the Indian Gaming Compact shall apply to
22 disputes arising under the terms of the Supplement to the
23 Indian Gaming Compact.

24 SECTION 8. Termination of Compact on Default of Agreed
25 Upon Contributions. If the Tribe is in default of its agreed
upon contributions in any amount due to the State pursuant to
its Indian Gaming Compact, its Supplement to the Indian Gaming
Compact or a Payment Agreement entered into pursuant to

1 Section 11-13-3 NMSA 1978, and notwithstanding any provision
 2 of the Tribe's original Indian Gaming Compact to the contrary,
 3 the Gaming Control Board may make a determination that the
 4 Indian Gaming Compact entered into between the Tribe and the
 5 State be terminated. To terminate the Indian Gaming Compact
 6 the Gaming Control Board shall send a Notice of Default and
 7 Intent to Terminate to the Tribe. The Indian Gaming Compact
 8 in total, including the Supplement to the Indian Gaming
 9 Compact, shall terminate automatically and without the need
 10 for further action thirty days following the date on which the
 11 Notice of Default and Intent to Terminate is received, unless
 12 the dispute resolution provisions of the Indian Gaming Compact
 13 are invoked or the default is cured during that thirty-day
 14 period.

13 SECTION 9. Supplement Negotiated by Parties. This
 14 Supplement to the Indian Gaming Compact and the Indian Gaming
 15 Compact, as of the date it is signed by the appropriate
 16 official of the Tribe and the Governor of the State, is deemed
 17 to have been negotiated in good faith and written by the
 18 parties who are signatories to this Supplement to the Indian
 19 Gaming Compact.

20 SECTION 10. Revenue-Sharing Agreements Void. On the
 21 date on which the action of or failure to act by the Secretary
 22 of the Interior on this Supplement to the Indian Gaming
 23 Compact entered into by the Tribe and the State is published
 24 in the federal register, the Revenue-Sharing Agreement entered
 25 into in 1997 between the Tribe and the State is void. ". "

Section 2. A new Section 11-13-3 NMSA 1978 is enacted to

underscored material = new
 [bracketed material] = delete

1 read:

2 "11-13-3. [NEW MATERIAL] RECONCILIATION OF PRIOR
3 REVENUE-SHARING PAYMENTS.

4 A. If a tribe wishes to enter into a supplement to
5 the Indian Gaming Compact, the governor of the state and the
6 appropriate official of a tribe that has entered into a
7 compact and revenue-sharing agreement with the state shall
8 jointly prepare an accounting of all amounts due from and
9 contributed by the tribe to the state pursuant to the terms of
10 the revenue-sharing agreement that was in effect between the
11 tribe and the state beginning in 1997 and all regulatory fees
12 deducted from the tribe's gaming net win, as defined in
13 Section 11-13-2 NMSA 1978, and regulatory fees due to the
14 state pursuant to the terms of Paragraph 5 of Subsection E of
15 SECTION 4 of the Indian Gaming Compact between the tribe and
16 the state.

17 B. If the total amount contributed, as determined
18 in Subsection A of this section, is less than the amount owed,
19 the governor of the state and the appropriate official of the
20 tribe shall execute a payment agreement that shall be deemed
21 part of the Indian Gaming Compact. The payment agreement
22 shall set forth the amount of the deficit owed to the state by
23 the tribe and specify the date by which and the manner in
24 which the tribe shall pay the amount of the deficit; provided
25 that the payment agreement shall provide that the deficit owed
by the tribe to the state shall be paid within two years
following the effective date of the Supplement to the Indian
Gaming Compact. "

1 Section 3. Section 60-2E-47 NMSA 1978 (being Laws 1997,
2 Chapter 190, Section 49, as amended) is amended to read:

3 "60-2E-47. GAMING TAX--IMPOSITION--ADMINISTRATION.--

4 A. An excise tax is imposed on the privilege of
5 engaging in gaming activities in the state. This tax shall be
6 known as the "gaming tax".

7 B. The gaming tax is an amount equal to ten
8 percent of the gross receipts of manufacturer licensees from
9 the sale, lease or other transfer of gaming devices in or into
10 the state, except receipts of a manufacturer from the sale,
11 lease or other transfer to a licensed distributor for
12 subsequent sale or lease may be excluded from gross receipts;
13 ten percent of the gross receipts of distributor licensees
14 from the sale, lease or other transfer of gaming devices in or
15 into the state; and [~~twenty-five~~] fifteen percent of the net
16 take of every gaming operator licensee. For the purposes of
17 this section, "gross receipts" means the total amount of money
18 or the value of other consideration received from selling,
19 leasing or otherwise transferring gaming devices.

20 C. The gaming tax imposed on a licensee is in lieu
21 of all state and local gross receipts taxes on that portion of
22 the licensee's gross receipts attributable to gaming
23 activities.

24 D. The gaming tax is to be paid on or before the
25 fifteenth day of the month following the month in which the
taxable event occurs. The gaming tax shall be administered
and collected by the taxation and revenue department in
cooperation with the board. The provisions of the Tax

. 128190. 4

underscored material = new
[bracketed material] = delete

1 Administration Act apply to the collection and administration
2 of the tax.

3 E. In addition to the gaming tax, a gaming
4 operator licensee that is a racetrack shall pay twenty percent
5 of its net take to purses to be distributed in accordance with
6 regulations adopted by the state racing commission. A
7 racetrack gaming operator licensee shall spend no less than
8 one-fourth of one percent of the net take of its gaming
9 machines to fund or support programs for the treatment and
assistance of compulsive gamblers.

10 F. A nonprofit gaming operator licensee shall
11 distribute at least eighty-eight percent of the balance of its
12 net take, after payment of the gaming tax and any income
13 taxes, for charitable or educational purposes. "

14 Section 4. EFFECTIVE DATE. --The effective date of the
provisions of Section 3 of this act is July 1, 1999.

underscored material = new
[bracketed material] = delete

1 **FORTY- FOURTH LEGISLATURE**
2 **FIRST SESSION, 1999**

3
4 **March 6, 1999**

5
6
7 **Mr. Speaker:**

8
9 **Your JUDICIARY COMMITTEE, to whom has been referred**

10 **HOUSE BUSINESS AND INDUSTRY COMMITTEE**
11 **SUBSTITUTE FOR HOUSE BILLS 419 & 615**

12
13 **has had it under consideration and reports same WITHOUT**
14 **RECOMMENDATION, amended as follows:**

15
16 1. On page 2, line 18, after "to" insert "an Indian
17 Gaming Compact or".

18 2. On page 2, line 19, strike "; with an", insert in
19 lieu thereof "unless the" and on line 20, strike "that has
20 not" and insert in lieu thereof "has".

21
22 3. On page 2, line 21, after "1978" strike the
23 remainder of the line and strike line 22 up to the
24 semicolon.

25 4. On page 4, between lines 18 and 19, insert the

. 128190. 4

1 FORTY-FOURTH LEGISLATURE
2 HBIC/HB 419 & 615 FIRST SESSION, 1999

3 HJC/HBICS/HB 419 & 615

Page 24

4 following:

6 "SECTION 4. Extension of Compact Terms.

7 Notwithstanding any provisions to the contrary in SECTION 11
8 of the Indian Gaming Compact entered into in 1997, upon the
9 approval of this Supplement to the Indian Gaming Compact,
10 the term of the Indian Gaming Compact shall be extended
11 beyond its original expiration date by an additional two (2)
12 years."

13 5. Renumber the succeeding SECTIONS of the form
14 entitled "Supplement to the Indian Gaming Compact" from page
15 4, line 19 to page 8, line 15.

17 6. On page 6, line 3, before the period insert:

18 "; provided, however, that a Tribe that generates less
19 than two million dollars (\$2,000,000) of net win in the
20 calendar quarter does not have to pay a share of its gaming
21 revenue to the state in that calendar quarter".

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HJC/HBICS/HB 419 & 615

Page 25

7. On page 8, line 7, after the period insert:

"If the dispute resolution provisions are invoked, and if the arbitration determines that the Tribe shall pay, the Tribe has thirty (30) days from the date of the final decision of the arbitration to pay the amount determined to be due to the State or the Tribe's Indian Gaming Compact and Supplement to the Indian Gaming Compact shall terminate automatically and without the need for further action. In the event that the Notice of Default and Intent to Terminate has been received and either gaming is continued beyond the thirty-day period or the dispute resolution provisions of the Indian Gaming Compact are invoked and the result does not provide for a continuation of gaming pursuant to the compact and the supplement, the parties agree that the U.S. Attorney is empowered to enforce the Notice of Default and Intent to Terminate pursuant to the U.S. Indian Gaming Regulatory Act."

8. On page 11 line 6, after "pay" insert a colon and the paragraph designation "(1)".

9. On page 11, line 8, after "commission" strike ". A" and insert in lieu thereof a semicolon.

. 128190. 4

underscored material = new
[bracketed material] = delete

1 FORTY-FOURTH LEGISLATURE
2 HBIC/HB 419 & 615 FIRST SESSION, 1999

3 HJC/HBICS/HB 419 & 615

Page 26

4 10. On page 11, strike line 9 in its entirety and
5 insert in lieu thereof the following:

6
7 "(2) five-tenths of one percent (.5%) of the net
8 take to be distributed to the jockey's guild health and
9 welfare trust maintained by the jockey's guild, inc. for the
10 purpose of providing health care and other welfare benefits
11 to active, disabled and retired New Mexico thoroughbred and
12 quarter horse jockeys pursuant to reasonable criteria for
13 benefit eligibility established by jockey's guild, inc. The
14 jockey's guild shall annually provide to the state racing
15 commission a certified financial statement of the
16 expenditures made for the benefits provided pursuant to this
17 subsection; and

18 (3) no less than".
19
20
21
22
23
24
25

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HJC/HBICS/HB 419 & 615

Page 27

and thence referred to the TAXATION AND REVENUE
COMMI TTEE.

Respectfully submitted,

R. David Pederson, Chairman

Adopted _____

Not Adopted _____

(Chi ef Clerk)

(Chi ef Clerk)

Date _____

underscoring material = new
[bracketed material] = delete

1 FORTY-FOURTH LEGISLATURE
2 HBIC/HB 419 & 615 FIRST SESSION, 1999

3 HJC/HBICS/HB 419 & 615

Page 28

4 The roll call vote was 9 For 1 Against

5 Yes: 9

6 No: Stewart

7 Excused: Luna, Vaughn

8 Absent: None

9

10

11

. 128473. 3

12

. 128489. 1

13

. 128490. 1

14

. 128502. 2

15

J: \99BillsWP\H0419

16

. 128527. 1

17

18

19

20

21

22

23

24

25

. 128190. 4

underscored material = new
[bracketed material] = delete

1 FORTY- FOURTH LEGISLATURE
2 FIRST SESSION, 1999

3
4 March 12, 1999

5
6
7 Mr. Speaker:

8
9 Your TAXATION AND REVENUE COMMITTEE, to whom has
10 been referred

11 HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE
12 FOR HOUSE BILLS 419 & 615, as amended

13
14 has had it under consideration and reports same with
15 recommendation that it DO NOT PASS, but that

16
17 HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
18 HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE
19 FOR HOUSE BILLS 419 & 615

20 DO PASS, amended as follows:

21
22 1. On page 56, strike line 25 and insert in lieu thereof
23 "but not to exceed a total of twenty-five Gaming Machines if the
24 number authorized is increased by legislative action;".

25 2. On page 57, strike line 7 after "1978" and insert in

. 128190. 4

4 lieu thereof "but not to exceed a total of five hundred Gaming
5 Machines if the number authorized is increased by legislative
6 action.".,

7
8 and thence referred to the APPROPRIATIONS AND FINANCE
9 COMMITTEE.

10 The roll call vote on Amendment #1 and Amendment #2 was 12 For
11 3 Against

12 Yes: 12

13 No: Burpo, Hawkins, Gubbels

14 Excused: None

15 Absent: None

16
17 Respectfully submitted,

18
19
20
21 _____
Jerry W. Sandel, Chairman
22
23
24
25

1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999

3 HTRC/HBICS/HB 419 & 615aa

Page 31

4 Adopted _____ Not Adopted _____
5 (Chief Clerk) (Chief Clerk)

6
7 Date _____

8
9 The roll call vote was 13 For 2 Against

10 Yes: 13

11 No: Sandoval, Tripp

12 Excused: None

13 Absent: None

14
15 129069.1

16 J:\99BillsWP\H0419

17
18
19
20
21
22
23
24
25
underscored material = new
[bracketed material] = delete

. 128190. 4

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILLS 419 & 615
HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR
44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

AN ACT

RELATING TO GAMING; AMENDING THE INDIAN GAMING COMPACT AND THE
REVENUE-SHARING AGREEMENT; REVISING REVENUE-SHARING
PROVISIONS; CHANGING CERTAIN OTHER PROVISIONS OF THE INDIAN
GAMING COMPACT AND THE REVENUE-SHARING AGREEMENT; ENACTING
TEMPORARY PROVISIONS; AMENDING AND REPEALING SECTIONS OF THE
NMSA 1978.

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

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

"11-13-1. INDIAN GAMING COMPACT ENTERED INTO. --The
Indian Gaming Compact is enacted into law and entered into
with all Indian nations, tribes and pueblos in the state
legally joining in it by enactment of a resolution pursuant to
the requirements of applicable tribal and federal law. The
compact is enacted and entered into in the form substantially
as follows:

"INDIAN GAMING COMPACT

underscored material = new
[bracketed material] = delete

INTRODUCTION

1 The State is a sovereign State of the United States of
2 America, having been admitted to the Union pursuant to the Act
3 of June 20, 1910, 36 Statutes at Large 557, Chapter 310, and
4 is authorized by its constitution to enter into contracts and
5 agreements, including this Compact, with the Tribe;

6 The Tribe is a sovereign federally recognized Indian
7 tribe and its governing body has authorized the officials of
8 the Tribe to enter into contracts and agreements of every
9 description, including this Compact, with the State;

10 The Congress of the United States has enacted the Indian
11 Gaming Regulatory Act of 1988, 25 U.S.C. §§ 2701-2721
12 (hereinafter "IGRA"), which permits Indian tribes to conduct
13 Class III Gaming on Indian Lands pursuant to a tribal-state
14 compact entered into for that purpose;

15 The Tribe owns or controls Indian Lands and by Ordinance
16 has adopted rules and regulations governing Class III games
17 played and related activities at any Gaming Facility;

18 The State and the Tribe, in recognition of the sovereign
19 rights of each party and in a spirit of cooperation to promote
20 the best interests of the citizens of the State and the
21 members of the Tribe, have engaged in good faith negotiations
22 recognizing and respecting the interests of each party and
23 have agreed to this Compact.

24 NOW, THEREFORE, the State and the Tribe agree as follows:

TERMS AND CONDITIONS

SECTION 1. Purpose and Objectives.

25 The purpose and objectives of the State and the Tribe in
making this Compact are as follows:

A. To evidence the good will and cooperative spirit
between the State and the Tribe;

B. To continue the development of an effective

1 government-to-government relationship between the State and
2 the Tribe;

3 C. To provide for the regulation of Class III Gaming on
4 Indian Lands as required by the IGRA;

5 D. To fulfill the purpose and intent of the IGRA by
6 providing for tribal gaming as a means of generating tribal
7 revenues, thereby promoting tribal economic development,
8 tribal self-sufficiency, and strong tribal government;

9 E. To provide revenues to fund tribal government
10 operations or programs, to provide for the general welfare of
11 the tribal members and for other purposes allowed under the
12 IGRA;

13 F. To provide for the effective regulation of Class III
14 Gaming in which the Tribe shall have the sole proprietary
15 interest and be the primary beneficiary; and

16 G. To address the State's interest in the establishment,
17 by the Tribe, of rules and procedures for ensuring that Class
18 III Gaming is conducted fairly and honestly by the owners,
19 operators, employees and patrons of any Class III Gaming
20 enterprise on Indian Lands.

21 SECTION 2. Definitions.

22 For purposes of this Compact, the following definitions
23 pertain:

24 A. "Class III Gaming" means all forms of gaming as
25 defined in 25 U.S.C. § 2703(8), and 25 C.F.R. § 502.4.

B. "Compact" means this compact between the State and
the Tribe.

C. "Gaming Enterprise" means the tribal entity created

1 and designated by the Tribe as having authority to conduct
2 Class III Gaming pursuant to this Compact.

3 D. "Gaming Facility" means the buildings or structures
4 in which Class III Gaming is conducted on Indian Lands.

5 E. "Gaming Machine" means a mechanical,
6 electromechanical or electronic contrivance or machine that,
7 upon insertion of a coin, token or similar object, or upon
8 payment of any consideration, is available to play or operate
9 a game, whether the payoff is made automatically from the
10 Gaming Machine or in any other manner.

11 F. "Indian Lands" means:

12 1. all lands within the exterior boundaries of the
13 Tribe's reservation and its confirmed grants from prior
14 sovereigns; [~~or~~] and

15 2. any other lands title to which is either held
16 in trust by the United States for the exclusive benefit of the
17 Tribe or a member thereof or is held by the Tribe or a member
18 thereof subject to restrictions against alienation imposed by
19 the United States, and over which the Tribe exercises
20 jurisdiction and governmental authority, but not including any
21 land within the boundaries of a municipality that is outside
22 of the boundaries of the Tribe's reservation or confirmed
23 Spanish grant, as those boundaries existed on October 17,
24 1988.

25 G. "Key Employee" means that term as defined in 25 CFR
Section 502.14.

H. "Management Contract" means a contract within the
meaning of 25 U. S. C. §§ 2710(d) (9) and 2711.

1 I. "Management Contractor" means any person or entity
2 that has entered into a Management Contract with the Tribe.

3 J. "Ordinance" means the gaming ordinance and any
4 amendments thereto adopted by the Tribal Council of the Tribe.

5 K. "Primary Management Official" means that term as
6 defined in 25 CFR Section 502.19.

7 L. "State" means the State of New Mexico.

8 M "State Gaming Representative" means that person
9 designated by the gaming control board pursuant to the Gaming
10 Control Act who will be responsible for actions of the State
11 set out in the Compact. The representative will be the single
12 contact with the Tribe and may be relied upon as such by the
13 Tribe. [~~If the State Legislature enacts legislation to
establish an agency of the State, such agency may assume the
duties of the State Gaming Representative.~~]

14 N. "Tribal Gaming Agency" means the tribal governmental
15 agency which will be identified to the State Gaming
16 Representative as the agency responsible for actions of the
17 Tribe set out in the Compact. It will be the single contact
18 with the State and may be relied upon as such by the State.

19 O. "Tribe" means [~~any~~] an Indian Nation, Tribe, or
20 Pueblo located within the State of New Mexico entering into
21 this Compact as provided for herein.

22 SECTION 3. Authorized Class III Gaming.

23 The Tribe may conduct, only on Indian Lands, subject to
24 all of the terms and conditions of this Compact, any or all
25 forms of casino-style gaming, including but not limited to
slot machines and other forms of electronic gaming devices;

underscored material = new
[bracketed material] = delete

1 all forms of poker, blackjack and other casino-style card
2 games, both banked and unbanked; roulette; craps; keno; wheel
3 of fortune; pai gow; and other games played in casino
4 settings; and any form of a lottery.

5 Subject to the foregoing, the Tribe shall establish, in
6 its discretion, by tribal law, such limitations as it deems
7 appropriate on the number and type of Class III Gaming
8 conducted, the location of Class III Gaming on Indian Lands,
9 the hours and days of operation, and betting and pot limits,
applicable to such gaming.

10 SECTION 4. Regulation of Class III Gaming.

11 A. Tribal Gaming Agency. The Tribal Gaming Agency will
12 assure that the Tribe will:

- 13 1. operate all Class III Gaming pursuant to this
14 Compact, tribal law, the IGRA and other
applicable Federal law;
- 15 2. provide for the physical safety of patrons in
16 any Gaming Facility;
- 17 3. provide for the physical safety of personnel
18 employed by the gaming enterprise;
- 19 4. provide for the physical safeguarding of assets
20 transported to and from the Gaming Facility and
cashier's cage department;
- 21 5. provide for the protection of the property of
22 the patrons and the gaming enterprise from
23 illegal activity;
- 24 6. participate in licensing of primary management
25 officials and key employees of a Class III

1 Gaming enterprise;

2 7. detain persons who may be involved in illegal
3 acts for the purpose of notifying law
4 enforcement authorities; and

5 8. record and investigate any and all unusual
6 occurrences related to Class III Gaming within
7 the Gaming Facility.

8 B. Regulations. Without affecting the generality of the
9 foregoing, the Tribe shall adopt laws:

10 1. prohibiting participation in any Class III
11 Gaming by any person under the age of twenty-one
12 (21);

13 2. prohibiting the employment of any person in
14 Class III Gaming activities who is under the age
15 of twenty-one (21) or who has not been licensed
16 in accordance with Section 5, herein;

17 3. requiring the Tribe to take all necessary action
18 to impose on its gaming operation standards and
19 requirements equivalent to or more stringent
20 than those contained in the federal Fair Labor
21 Standards Act of 1938, the federal Occupational
22 Safety and Health Act of 1970, and any other
23 federal laws relating to wages, hours of work
24 and conditions of work, and the regulations
25 issued thereunder;

 4. requiring that on any construction project
 involving any Gaming Facility or related
 structure that is funded in whole or in part by

underscored material = new
[bracketed material] = delete

1 federal funds, all workers will be paid wages
2 meeting or exceeding the standards established
3 for New Mexico under the federal Davis-Bacon
4 Act;

- 5 5. prohibiting the Tribe, the Gaming Enterprise and
6 a Management Contractor from discriminating in
7 the employment of persons to work for the gaming
8 Enterprise or in the Gaming Facility on the
9 grounds of race, color, national origin, gender,
10 sexual orientation, age or handicap;
- 11 6. providing to all employees of a gaming
12 establishment employment benefits, including, at
13 a minimum, sick leave, life insurance, paid
14 annual leave and medical and dental insurance as
15 well as providing unemployment insurance and
16 workers' compensation insurance through
17 participation in programs offering benefits at
18 least as favorable as those provided by
19 comparable state programs;
- 20 7. providing a grievance process for an employee in
21 cases of disciplinary or punitive action taken
22 against an employee that includes a process for
23 appeals to persons of greater authority than the
24 immediate supervisor of the employee;
- 25 8. permitting State Department of Environment
inspectors to inspect Gaming Facilities' food
service operations during normal Gaming Facility
business hours to assure that standards and

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

- requirements equivalent to the State's Food Service Sanitation Act are maintained;
9. prohibiting a gaming enterprise from cashing any paycheck or any type of government assistance check, including Social Security, AFDC, pension and other similar checks, for any patron;
 10. prohibiting a gaming enterprise from extending credit by accepting IOUs or markers from its patrons;
 11. requiring that odds be posted on each electronic and electromechanical gaming device;
 12. requiring that automatic teller machines on Gaming Facility premises be programmed so that the machines will not accept cards issued by the State to AFDC recipients for access to AFDC benefits;
 13. providing that each electronic or electromechanical gaming device in use at the Gaming Facility must pay out a mathematically demonstrable percentage of all amounts wagered, which must not be less than eighty percent (80%);
 14. providing that no later than ninety days after this Compact takes effect, all gaming machines on the premises of the Gaming Facility will be connected to a central computerized reporting and auditing system on the Gaming Facility premises, which shall collect on a continual

1 basis the activity of each gaming machine in use
2 at the Gaming Facility, and that such data shall
3 be electronically accessible to the State Gaming
4 Representative upon entry of appropriate
5 security codes;

6 15. enacting provisions that:

7 (a) prohibit an employee of the Gaming
8 Facility from selling, serving, giving or
9 delivering an alcoholic beverage to an
10 intoxicated person or from procuring or
11 aiding in the procurement of any alcoholic
12 beverage for an intoxicated person at the
13 Gaming Facility;

14 (b) require Gaming Facility employees that
15 dispense, sell, serve or deliver alcoholic
16 beverages to attend Alcohol Server
17 Education Classes similar to those classes
18 provided for in the New Mexico Liquor
19 Control Act; and

20 (c) require the gaming enterprise to purchase
21 and maintain a liquor liability insurance
22 policy that will provide, at a minimum,
23 personal injury coverage of one million
24 dollars (\$1,000,000) per incident and two
25 million dollars (\$2,000,000) aggregate per
policy year;

16. prohibiting alcoholic beverages from being sold,
served, delivered or consumed in that part of a

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

- 1 Gaming Facility where gaming is allowed;
- 2 17. requiring the gaming enterprise to spend an
- 3 amount that is no less than one-quarter of one
- 4 percent (.25%) of its net win as that term is
- 5 defined herein annually to fund or support
- 6 programs for the treatment and assistance of
- 7 compulsive gamblers and for the prevention of
- 8 compulsive gambling;
- 9 18. governing any Management Contract regarding its
- 10 Class III Gaming activity [~~such~~] so that it
- 11 conforms to the requirements of tribal law and
- 12 the IGRA and the regulations issued thereunder;
- 13 19. prohibiting the operation of any Class III
- 14 Gaming for at least four (4) consecutive hours
- 15 daily, Mondays through Thursdays (except federal
- 16 holidays);
- 17 20. prohibiting a Tribal Gaming Enterprise and the
- 18 Tribe from providing, allowing, contracting to
- 19 provide or arranging to provide alcoholic
- 20 beverages, food or lodging for no charge or at
- 21 reduced prices at a Gaming Facility or lodging
- 22 facility as an incentive or enticement for
- 23 patrons to game; and
- 24 21. prohibiting the Tribe, the Tribal Gaming
- 25 [Agency] Enterprise or a Management Contractor
- from contributing directly, or through an agent,
- representative or employee, revenue from a
- Gaming Enterprise owned by the Tribe, or

1 anything of value acquired with that revenue, to
2 a candidate, political committee or person
3 holding an office elected or to be elected at an
4 election covered by the State's Campaign
5 Reporting Act.

6 The Tribal Gaming Agency will provide true copies of all
7 tribal laws and regulations affecting Class III Gaming
8 conducted under the provisions of this Compact to the State
9 Gaming Representative within thirty (30) days after the
10 effective date of this Compact, and will provide true copies
11 of any amendments thereto or additional laws or regulations
12 affecting gaming within thirty (30) days after their enactment
(or approval, if any).

13 C. Audit and Financial Statements. The Tribal Gaming
14 Agency shall require all books and records relating to Class
15 III Gaming to be maintained in accordance with generally
16 accepted accounting principles. All such books and records
17 shall be retained for a period of at least six (6) years from
18 the date of creation. Not less than annually, the Tribal
19 Gaming Agency shall require an audit and a certified financial
20 statement covering all financial activities of the Gaming
21 Enterprise by an independent certified public accountant
22 licensed by the State. The financial statement shall be
23 prepared in accordance with generally accepted accounting
24 principles and shall be submitted to the Tribal Gaming Agency
25 within one hundred twenty (120) days of the close of the
Tribe's fiscal year. Copies of the financial statement and
the audit shall be furnished to the State Gaming

1 Representative and the state treasurer by the Tribal Gaming
2 Agency within one hundred twenty days of the agency's receipt
3 of the documents. The Tribe will maintain the following
4 records for not less than six (6) years:

- 5 1. revenues, expenses, assets, liabilities and
6 equity for each Gaming Facility;
- 7 2. daily cash transactions for each Class III
8 Gaming activity at each Gaming Facility,
9 including but not limited to transactions
10 relating to each gaming table bank, game dropbox
11 and gaming room bank;
- 12 3. all markers, IOUs, returned checks, hold check
13 or other similar credit instruments;
- 14 4. individual and statistical game records (except
15 card games) to reflect statistical drop and
16 statistical win; for electronic, computer, or
17 other technologically assisted games, analytic
18 reports which show the total amount of cash
19 wagered and the total amount of prizes won;
- 20 5. contracts, correspondence and other transaction
21 documents relating to all vendors and
22 contractors;
- 23 6. records of all tribal gaming enforcement
24 activities;
- 25 7. audits prepared by or on behalf of the Tribe;
and
8. personnel information on all Class III Gaming
employees or agents, including rotation sheets,

1 hours worked, employee profiles and background
2 checks.

3 D. Violations. The agents of the Tribal Gaming Agency
4 shall have unrestricted access to the Gaming Facility during
5 all hours of Class III Gaming activity, and shall have
6 immediate and unrestricted access to any and all areas of the
7 Gaming Facility for the purpose of ensuring compliance with
8 the provisions of this Compact and the Ordinance. The agents
9 shall report immediately to the Tribal Gaming Agency any
10 suspected violation of this Compact, the Ordinance, or
11 regulations of the Tribal Gaming Agency by the Gaming
12 Enterprise, Management Contractor, or any person, whether or
13 not associated with Class III Gaming.

14 E. State Gaming Representative.

- 15 1. Upon written request by the State to the Tribe,
16 the Tribe will provide information on primary
17 management officials, key employees and
18 suppliers, sufficient to allow the State to
19 conduct its own background investigations, as it
20 may deem necessary, so that it may make an
21 independent determination as to the suitability
22 of such individuals, consistent with the
23 standards set forth in Section 5 [~~hereinafter~~]
24 of this compact. The Tribe shall consider any
25 information or recommendations provided to it by
the State as to any such person or entity, but
the Tribe shall have the final say with respect
to the hiring or licensing of any such person or

underscored material = new
[bracketed material] = delete

1 entity.

2 2. Notwithstanding that the Tribe has the primary
3 responsibility to administer and enforce the
4 regulatory requirements, the State Gaming
5 Representative [~~authorized in writing by the~~
6 ~~Governor of the State or by legislation duly~~
7 ~~enacted by the State Legislature shall have~~] has
8 the right to inspect a Gaming Facility, Class
9 III Gaming activity, and all records relating to
10 Class III Gaming (including those set forth in
11 Section 5 [~~hereinafter~~] of this compact) of the
12 Tribe, subject to the following conditions:

13 (a) with respect to public areas of a Gaming
14 Facility, at any time without prior notice
15 during normal Gaming Facility business
16 hours;

17 (b) with respect to private areas of a Gaming
18 Facility not accessible to the public, at
19 any time during normal Gaming Facility
20 business hours, immediately after
21 notifying the Tribal Gaming Agency and
22 Gaming [~~Facility~~] Enterprise of his or her
23 presence on the premises and presenting
24 proper identification, and requesting
25 access to the non-public areas of the
 Gaming Facility. The Tribe, in its sole
 discretion, may require an employee of the
 Gaming [~~Facility~~] Enterprise or the Tribal

underscored material = new
[bracketed material] = delete

Gaming Agency to accompany the State Gaming Representative at all times that the State Gaming Representative is on the premises of a Gaming Facility, but if the Tribe imposes such a requirement, the Tribe shall require such an employee of the Gaming [Facility] Enterprise or the Tribal Gaming Agency to be available at all times for such purposes;

(c) with respect to inspection and copying of all management records relating to Class III Gaming, at any time without prior notice between the hours of 9:00 a.m. and 4:00 p.m. Monday through Friday, excluding official holidays. The reasonable costs of copying will be borne by the State; and

(d) whenever the State Gaming Representative, or his designee, enters the premises of the Gaming Facility for any such inspection, such Representative, or designee, shall identify himself to security or supervisory personnel of the Gaming [Facility] Enterprise.

3. Gaming Enterprise and gaming operations information that is provided to the State Gaming Representative shall be considered public information and subject to the Inspection of Public Records Act. Trade secrets, information

underscored material = new
[bracketed material] = delete

1 relating to security and surveillance systems,
2 cash handling and accounting procedures,
3 building layout, gaming machine payouts,
4 investigations into alleged violations of laws
5 or regulations, personnel records and
6 proprietary information regarding the Gaming
7 Enterprise [~~of the Tribe~~], Class III Gaming
8 conducted by the Tribe, or the operation
9 thereof, shall not be deemed public records as a
10 matter of state law, and shall not be disclosed
11 to any member of the public, without the prior
12 written approval of a duly authorized
13 representative of the Tribe. These prohibitions
14 shall not [~~be construed to~~] prohibit:

- 15 (a) the furnishing of any information to a law
16 enforcement or regulatory agency of the
17 Federal Government;
- 18 (b) the State from making known the names of
19 persons, firms, or corporations conducting
20 Class III Gaming pursuant to the terms of
21 this Compact, locations at which such
22 activities are conducted, or the dates on
23 which such activities are conducted;
- 24 (c) publishing the terms of this Compact;
- 25 (d) disclosing information as necessary to
audit, investigate, prosecute or arbitrate
violations of this Compact or other
applicable laws or to defend suits against

underscored material = new
[bracketed material] = delete

1 the State; and

2 (e) complying with subpoenas or court orders
3 issued by courts of competent
4 jurisdiction.

5 4. To the fullest extent allowed by State law, the
6 Tribe shall have the right to inspect State
7 records concerning all Class III Gaming
8 conducted by the Tribe; the Tribe shall have the
9 right to copy such State records, with the Tribe
bearing the reasonable cost of copying.

10 5. For every year or part thereof in which the
11 Tribe is actually engaged in Class III Gaming
12 hereunder, the Tribe shall reimburse the State
13 for the costs the State incurs in carrying out
14 any functions authorized by the terms of this
15 Compact. All calculations of amounts due shall
16 be based upon the operations of the Gaming
17 Enterprise on the final day of operation of each
18 quarter of the calendar year. Payments due the
19 State shall be made no later than the twenty-
20 fifth day of the month following the end of a
21 quarter to the State Treasurer for deposit into
22 the General Fund of the State ("State General
23 Fund"). The amount of the regulatory fee each
24 quarter ~~[shall be the sum of six thousand two~~
25 ~~hundred fifty dollars (\$6,250) per Gaming~~
~~Facility plus three hundred dollars (\$300) per~~
~~gaming machine plus seven hundred fifty dollars~~

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 ~~(\$750) per gaming table or device other than a~~
2 ~~Gaming Machine. These amounts shall increase by~~
3 ~~five percent (5%) each year beginning on the~~
4 ~~first day of January occurring after the Compact~~
5 ~~has been in effect for at least twelve months.~~
6 ~~6. In the event the State believes that the Tribe~~
7 ~~is not administering and enforcing the~~
8 ~~regulatory requirements set forth herein, it may~~
9 ~~invoke the procedures set forth in Section 7 of~~
10 ~~this Compact.] is the sum of the following~~
11 calculations:
12 (a) for the average number of machines in
13 operation during a quarter, up to two hundred
14 machines in number, the amount of fifty dollars
15 (\$50.00) per machine; and
16 (b) for the average number of machines in
17 operations during a quarter, exceeding two
18 hundred machines in number, the amount of one
19 hundred twenty-five dollars (\$125) per machine.
20 6. No other state regulatory costs shall be payable
21 by a Gaming Enterprise. If a dispute arises
22 between the State and the Tribe about the
23 amount, calculation, payment or other matter
24 involving state regulatory fees, it shall be
25 resolved pursuant to Section 7 of this Compact.

F. The Tribe shall comply with all applicable provisions of the Bank Secrecy Act, P.L. 91-508, October 26, 1970, 31 U.S.C. §§ 5311-5314, and all reporting requirements of the

1 Internal Revenue Service.

2 SECTION 5. Licensing Requirements.

3 A. License Required. The Gaming [~~Facility operator (but~~
4 ~~not including the Tribe)~~] Enterprise, including its
5 principals, primary management officials, and key employees,
6 the Management Contractor and its principals, primary
7 management officials, and key employees (if the Tribe hires a
8 Management Contractor); any person, corporation, or other
9 entity that has supplied or proposes to supply any gaming
10 device to the Tribe or the Management Contractor; and any
11 person, corporation or other entity providing gaming services
12 within or without a Gaming Facility, shall apply for and
13 receive a license from the Tribal Gaming Agency before
14 participating in any way in the operation or conduct of any
15 Class III Gaming on Indian Lands.

16 B. License Application. Each applicant for a license
17 shall file with the Tribal Gaming Agency a written application
18 in the form prescribed by the Tribal Gaming Agency, along with
19 the applicant's fingerprint card, current photograph and the
20 fee required by the Tribal Gaming Agency.

- 21 1. The following Notice ("Privacy Act Notice")
22 shall be placed on the application form for a
23 principal, key employee or a primary management
24 official before that form is filled out by an
25 applicant:

"In compliance with the
Privacy Act of 1974, the
following information is

underscored material = new
[bracketed material] = delete

1 provided: Solicitation of the
2 information on this form is
3 authorized by 25 U. S. C.
4 §§ 2701-2721. The purpose of
5 the requested information is
6 to determine the eligibility
7 of individuals to be employed
8 [~~in a~~] by the Gaming
9 Enterprise. The information
10 will be used by members and
11 staff of the Tribal Gaming
12 Agency and the National Indian
13 Gaming Commission who have
14 need for the information in
15 the performance of their
16 official duties. The
17 information may be disclosed
18 to appropriate federal,
19 tribal, state, local or
20 foreign law enforcement and
21 regulatory agencies when
22 relevant to civil, criminal or
23 regulatory investigations or
24 prosecutions or when, pursuant
25 to a requirement by a Tribe,
or the National Indian Gaming
Commission, the information is
relevant to the hiring or

underscored material = new
[bracketed material] = delete

1 firing of an employee, the
 2 issuance or revocation of a
 3 gaming license or
 4 investigations of activities
 5 while associated with a Tribe
 6 or a gaming enterprise.
 7 Failure to consent to the
 8 disclosures indicated in this
 9 Notice will result in a Tribe
 10 being unable to hire you in a
 11 primary management official or
 12 key employee position with [~~a~~
 13 ~~tribal~~] the Gaming Enterprise.
 14 The disclosure of your Social
 15 Security Number (SSN) is
 16 voluntary. However, failure
 17 to supply an SSN may result in
 18 errors in processing your
 19 application. "

2. Existing principals, key employees and primary management officials shall be notified, in writing, that they shall either:
 - (a) complete a new application form that contains a Privacy Act Notice; or
 - (b) sign a statement that contains the Privacy Act Notice and consent to the routine uses described in that Notice.
3. The following Notice ("False Statement Notice")

underscored material = new
 [bracketed material] = delete

1 shall be placed on the application form for a
2 principal, key employee or a primary management
3 official before that form is filled out by an
4 applicant:

5 "A false statement on any part of your
6 application may be grounds for not hiring you
7 or for firing you after you begin work. Also,
8 you may be punished by fine or imprisonment.
See 18 U. S. C. § 1001. "

- 9 4. The Tribal Gaming Agency shall notify, in
10 writing, existing principals, key employees and
11 primary management officials that they shall
12 either:
- 13 (a) complete a new application form that
14 contains a False Statement Notice; or
 - 15 (b) sign a statement that contains the False
16 Statement Notice.
- 17 5. The Tribal Gaming Agency shall request from each
18 applicant, and from each principal, primary
19 management official and key employee of each
20 applicant, all of the following information:
- 21 (a) full name, other names used (oral or
22 written), Social Security Number(s), birth
23 date, place of birth, citizenship, gender
24 and all languages spoken or written;
 - 25 (b) currently, and for the previous ten (10)
years, business and employment positions
held, ownership interests in those

underscored material = new
[bracketed material] = delete

1 businesses, business and residence
2 addresses and driver's license numbers;
3 provided, that any applicant who is a
4 principal, primary management official,
5 key employee, Management Contractor,
6 manufacturer or supplier of gaming
7 devices, and/or a person providing gaming
8 services, must provide such information
9 currently, and from the age of eighteen
(18);

- 10 (c) the names and current addresses of at
11 least three (3) personal references,
12 including one (1) personal reference who
13 was acquainted with the applicant during
14 each period of residence listed in
Paragraph B. 5. (b) of this section;
- 15 (d) current business and residence telephone
16 numbers;
- 17 (e) a description of any existing and previous
18 business relationships with a Tribe,
19 including ownership interests in those
20 businesses, and a description of any
21 potential or actual conflict of interests
between such businesses and a Tribe;
- 22 (f) a description of any existing and previous
23 business relationships in the gaming
24 industry, including, but not limited to,
25 ownership interests in those businesses;

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

- (g) the name and address of any licensing or regulatory agency with which the applicant has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
- (h) for each felony for which there is an ongoing prosecution or a conviction, the charge, the date of the charge, the name and address of the court involved and the disposition, if any;
- (i) for each misdemeanor for which there is an ongoing prosecution or conviction (excluding minor traffic violations), the charge, the date of the charge, the name and address of the court involved and the disposition, if any;
- (j) for each criminal charge (excluding minor traffic charges), whether or not there is a conviction, if such criminal charge is not otherwise listed pursuant to Paragraph B. 5. (h) or B. 5. (i) of this section, the criminal charge, the date of the charge, the name and address of the court involved and the disposition, if any;
- (k) the name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, as an

1 applicant, principal, primary management
2 official or key employee, and whether or
3 not such license or permit was granted;

- 4 (l) a current photograph;
- 5 (m) fingerprints, which shall be taken by
6 officers of the tribal police department
7 or by another law enforcement agency and
8 forwarded directly to the tribal police
9 department. Pursuant to a Memorandum of
10 Understanding between the Tribe and the
11 National Indian Gaming Commission
12 ("Commission"), tribal police officers
13 shall forward the fingerprint cards
14 directly to the Commission;
- 15 (n) the fee required by the Tribal Gaming
16 Agency; and
- 17 (o) any other information the Tribal Gaming
18 Agency deems relevant.

19 C. Background Investigations.

- 20 1. Upon receipt of a completed application and
21 required fee for licensing, the Tribal Gaming
22 Agency shall conduct or cause to be conducted a
23 background investigation to ensure that the
24 applicant is qualified for licensing.
- 25 2. Background checks of applicants will be
performed pursuant to the following procedures:
 - (a) The Tribal Gaming Agency will provide
applications to potential applicants upon

underscored material = new
[bracketed material] = delete

1 request and shall collect and maintain the
2 applications.

3 (b) Pursuant to a Memorandum of Understanding
4 between the Tribe and the Commission,
5 tribal police officers will collect
6 fingerprints from all applicants and
7 forward the fingerprint cards directly to
8 the Commission. The Commission will
9 obtain a criminal history record from the
10 Federal Bureau of Investigation on each
11 applicant and forward such information to
12 the Tribal Gaming Agency.

13 (c) The Tribal Gaming Agency shall investigate
14 the information provided in the
15 applications. This investigation shall
16 include:

- 17 (1) contacting persons or entities
18 identified in the application and
19 verifying by written or oral
20 communication that the information
21 contained in the application is
22 accurate;
- 23 (2) interviewing a sufficient number of
24 knowledgeable people, such as former
25 employers, partners, business
associates, and others referred to in
the application, to provide a basis for
the Tribal Gaming Agency to make a

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

underscored material = new
[bracketed material] = delete

determination concerning whether the applicant meets applicable eligibility requirements;

(3) reviewing relevant financial records of the applicant for the three (3) years preceding the application; and

(4) contacting any state, federal or other government agency that is referred to in the application.

(d) The Tribal Gaming Agency shall document any information it obtains that calls into question whether the applicant would meet the eligibility requirements under the Ordinance. The Tribal Gaming Agency shall then document in detail the disposition of these problem areas, indicating the follow-up investigations performed on the problem areas and the result of such investigations.

(e) The Tribal Gaming Agency will review the results of the investigation. This review will include a determination as to the scope of the investigation and whether sufficient information was obtained and verified. If such information is found not sufficient, the Tribal Gaming Agency will perform additional investigations.

(f) Once the investigation is complete, the Tribal Gaming Agency will decide whether the

1 applicant meets the eligibility criteria
2 under the Ordinance.

- 3 3. In conducting a background investigation, the
4 Tribal Gaming Agency and its agents shall keep
5 confidential the identity of each person
6 interviewed in the course of the investigation.
- 7 4. Within twenty (20) days of the receipt of a
8 completed application for licensing, and upon
9 request of an applicant, the Tribal Gaming Agency
10 may issue a temporary license to the applicant,
11 unless the background investigation undertaken
12 discloses that the applicant has a criminal
13 history, or unless other grounds sufficient to
14 disqualify the applicant are apparent on the face
15 of the application. The temporary license shall
16 become void and be of no effect upon either:
17 (a) the issuance of the license;
18 (b) the issuance of a notice of denial; or
19 (c) ninety (90) days after the temporary license
20 is issued, whichever occurs first.
- 21 5. The Tribal Gaming Agency shall review a person's
22 prior activities, criminal record, if any, and
23 reputation, habits and associations to make a
24 finding concerning the eligibility or suitability
25 of an applicant, or a principal, key employee or
primary management official of an applicant, for
employment or involvement ~~[in a]~~ by the Gaming
Enterprise. After such consultation, the Tribal

1 Gaming Agency shall either issue a license or
2 deny the application. If the Tribal Gaming
3 Agency determines that employment or involvement
4 of the applicant poses a threat to the public
5 interest or to the effective regulation of Class
6 III Gaming or creates or enhances dangers of
7 unsuitable, unfair or illegal practices, methods
8 or activities in the conduct of Class III Gaming,
9 the Tribal Gaming Agency shall deny the
10 application.

- 11 6. The Tribal Gaming Agency shall retain the right
12 to conduct additional background investigations
13 of any person required to be licensed at any time
14 while the license is valid.

15 D. Procedure for Forwarding Applications and Reports.

16 Procedures for forwarding applications and investigative
17 reports to the Commission and State Gaming Representative:

- 18 1. When a key employee or primary management
19 official begins work ~~[at a]~~ for the Gaming
20 Enterprise authorized by this Compact, the Tribal
21 Gaming Agency shall forward to the Commission and
22 the State Gaming Representative a completed
23 application for employment.
- 24 2. The Tribal Gaming Agency shall forward the report
25 referred to in Paragraph D.4. of this section to
the Commission and the State Gaming
Representative within sixty (60) days after an
employee begins work, or within sixty (60) days

underscored material = new
[bracketed material] = delete

1 of the approval of this Compact by the Secretary
2 of the Interior.

3 3. A key employee or primary management official who
4 does not have a license shall not be employed
5 after ninety (90) days.

6 4. The Tribal Gaming Agency shall prepare and
7 forward to the Commission and the State Gaming
8 Representative a report on each background
9 investigation ("Investigative Report"). An
10 Investigative Report shall include all of the
11 following:

12 (a) steps taken in conducting the background
13 investigation;

14 (b) results obtained;

15 (c) conclusions reached; and

16 (d) the basis for those conclusions.

17 5. The Tribal Gaming Agency shall submit with the
18 Investigative Report a copy of the eligibility
19 determination made under Paragraph C.5. of this
20 section.

21 6. If a license is not issued to an applicant, the
22 Tribal Gaming Agency shall notify the Commission
23 and the State Gaming Representative.

24 7. With respect to principals, key employees and
25 primary management officials, the Tribal Gaming
Agency shall retain applications for employment
and Investigative Reports (if any) for no less
than three (3) years from the date of termination

underscored material = new
[bracketed material] = delete

1 of employment.

2 E. Granting a Gaming License.

3 1. If within thirty (30) days after it receives an
4 Investigative Report, neither the Commission nor
5 the State Gaming Representative has notified the
6 Tribal Gaming Agency that it has an objection to
7 the issuance of a license pursuant to a license
8 application filed by a principal, key employee or
9 primary management official, the Tribal Gaming
Agency may issue a license to such applicant.

10 2. The Tribal Gaming Agency shall respond to any
11 request for additional information from the
12 Commission or the State Gaming Representative
13 concerning a principal, key employee or primary
14 management official who is the subject of an
15 Investigative Report. Such a request shall
16 suspend the thirty-day (30-day) period under
17 Paragraph E. 1. of this section until the
18 Commission or the State Gaming Representative
19 receives the additional information; however, in
20 no event shall a request for additional
21 information by the State Gaming Representative
22 extend the thirty-day (30-day) period under
23 Paragraph E. 1. of this section for a total period
24 of more than sixty (60) days from the date the
25 State Gaming Representative received the
Investigative Report.

3. If, within the thirty-day (30-day) period

underscored material = new
[bracketed material] = delete

1 described above, the Commission or the State
2 Gaming Representative provides the Tribal Gaming
3 Agency with a statement itemizing objections to
4 the issuance of a license to a principal, key
5 employee or primary management official for whom
6 the Tribal Gaming Agency has provided an
7 application and Investigative Report, the Tribal
8 Gaming Agency shall reconsider the application,
9 taking into account the objections itemized by
10 the Commission and/or the State Gaming
11 Representative, and make a final decision whether
12 to issue a license to such applicant.

12 F. Management Contract.

- 13 1. If the Tribe chooses to enter into a Management
14 Contract, the Tribal Gaming Agency shall require
15 that all principals, primary management officials
16 and key employees of the Management Contractor be
17 licensed.
- 18 2. The Tribe may enter into a Management Contract
19 only if the Management Contract:
- 20 (a) provides that all Class III Gaming covered
21 by the Management Contract will be conducted
22 in accordance with the IGRA, the Ordinance
23 and this Compact;
- 24 (b) enumerates the responsibilities of each of
25 the parties for each identifiable function,
including:
- (1) maintaining and improving the Gaming

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

- Facility;
- (2) providing operating capital;
- (3) establishing operating days and hours;
- (4) hiring, firing, training and promoting employees;
- (5) maintaining the Gaming Enterprise's books and records;
- (6) preparing the Gaming Enterprise's financial statements and reports;
- (7) paying for the services of the independent auditor engaged pursuant to 25 C. F. R. § 571.12;
- (8) hiring and supervising security personnel;
- (9) providing fire protection services;
- (10) setting an advertising budget and placing advertising;
- (11) paying bills and expenses;
- (12) establishing and administering employment practices;
- (13) obtaining and maintaining insurance coverage, including coverage of public liability and property loss or damage;
- (14) complying with all applicable provisions of the Internal Revenue Code of 1986, as amended;
- (15) paying the cost of public safety services; and

1 (16) if applicable, supplying the Commission
2 with all information necessary for the
3 Commission to comply with the National
4 Environmental Policy Act of 1969;

5 (c) provides for the establishment and
6 maintenance of satisfactory accounting
7 systems and procedures that shall, at a
8 minimum:

9 (1) include an adequate system of internal
10 controls;

11 (2) permit the preparation of financial
12 statements in accordance with generally
13 accepted accounting principles;

14 (3) be susceptible to audit;

15 (4) permit the calculation and payment of
16 the Management Contractor's fee; and

17 (5) provide for the allocation of operating
18 expenses or overhead expenses among the
19 Tribe, the Management Contractor and any
20 other user of a shared Gaming Facility
21 and services;

22 (d) requires the Management Contractor to
23 provide the Tribe, not less frequently than
24 monthly, verifiable financial reports or all
25 information necessary to prepare such
reports;

(e) requires the Management Contractor to
provide immediate access to the Gaming

underscored material = new
[bracketed material] = delete

1 Facility, including its books and records,
2 by appropriate officials of the Tribe, who
3 shall have:

- 4 (1) the right to verify the daily gross
5 revenues and income from the gaming
6 [~~enterprise~~] activities; and
7 (2) access to any other gaming-related
8 information the Tribe deems appropriate;

9 (f) provides for a minimum guaranteed monthly
10 payment to the Tribe in a sum certain that
11 has preference over the retirement of
12 development and construction costs;

13 (g) provides an agreed upon maximum dollar
14 amount for the recoupment of development and
15 construction costs;

16 (h) provides for a term not to exceed the period
17 allowed by the IGRA;

18 (i) details the method of compensating and
19 reimbursing the Management Contractor. If a
20 Management Contract provides for a
21 percentage fee, such fee shall be either:

- 22 (1) not more than thirty percent (30%) of
23 the net revenues [~~of~~] from the gaming
24 [~~enterprise~~] activities if the Chairman
25 of the Commission determines that such
percentage is reasonable considering the
circumstances; or

- (2) not more than forty percent (40%) of the

underscored material = new
[bracketed material] = delete

1 net revenues if the Chairman of the
2 Commission is satisfied that the capital
3 investment required and income
4 projections for the gaming [~~enterprise~~]
5 activities require the additional fee;

- 6 (j) provides the grounds and mechanisms for
7 modifying or terminating the Management
8 Contract;
- 9 (k) contains a mechanism to resolve disputes
10 between:
11 (1) the Management Contractor and customers,
12 consistent with the procedures in the
13 Ordinance;
14 (2) the Management Contractor and the Tribe;
15 and
16 (3) the Management Contractor and the Gaming
17 Enterprise employees;
- 18 (l) indicates whether and to what extent
19 contract assignments and subcontracting are
20 permissible;
- 21 (m) indicates whether and to what extent changes
22 in the ownership interest in the Management
23 Contract require advance approval by the
24 Tribe; and
- 25 (n) states that the Management Contract shall
not be effective unless and until it is
approved by the Chairman of the Commission,
date of signature of the parties

underscored material = new
[bracketed material] = delete

1 Agency will adopt standards for any and all Class III Gaming
2 equipment, devices or supplies to be purchased, leased or
3 otherwise acquired by the Tribe after the effective date of
4 this Compact for use in any Gaming Facility, which standards
5 shall be at least as strict as the comparable standards
6 applicable to Class III Gaming equipment, devices or supplies
7 within the State of Nevada. Any and all Class III Gaming
8 equipment, devices or supplies acquired by the Tribe after the
9 date of this Compact shall meet or exceed the standards
10 thereby adopted, and any and all Class III Gaming equipment,
11 devices or supplies used by the Tribe in its Gaming Facilities
12 as of the effective date of this Compact shall be upgraded or
13 replaced, if necessary, so as to comply with such standards,
14 by no later than one (1) year after the effective date of this
15 Compact.

14 B. Prior to entering into any future lease or purchase
15 agreement for Class III Gaming equipment, devices or supplies,
16 the Tribe shall obtain sufficient information and
17 identification from the proposed seller or lessor and all
18 persons holding any direct or indirect financial interest in
19 the lessor or the lease/purchase agreement to permit the Tribe
20 to license those persons in accordance with Section 5 [~~hereof~~]
21 of this compact.

21 C. The seller, lessor, manufacturer or distributor shall
22 provide, assemble and install all Class III Gaming equipment,
23 devices or supplies in a manner approved and licensed by the
24 Tribe.

25 SECTION 7. Dispute Resolution.

1 A. In the event either party believes that the other
2 party has failed to comply with or has otherwise breached any
3 provision of this Compact, such party may invoke the following
4 procedure:

- 5 1. The party asserting noncompliance shall serve
6 written notice on the other party. The notice
7 shall identify the specific Compact provision
8 believed to have been violated and shall specify
9 the factual and legal basis for the alleged
10 noncompliance. The notice shall specifically
11 identify the date, time and nature of the alleged
12 noncompliance. Representatives of the State and
13 Tribe shall thereafter meet within thirty (30)
14 days in an effort to resolve the dispute.
- 15 2. In the event an allegation by the complaining
16 party is not resolved to the satisfaction of such
17 party within ninety (90) days after service of
18 the notice set forth in Paragraph A. 1. of this
19 section, the complaining party may serve upon the
20 other party a notice to cease conduct of the
21 particular game(s) or activities alleged by the
22 complaining party to be in noncompliance. Upon
23 receipt of such notice, the responding party may
24 elect to stop the game(s) or activities specified
25 in the notice or invoke arbitration and continue
the game(s) or activities pending the results of
arbitration. The responding party shall act upon
one of the foregoing options within thirty (30)

1 days of receipt of notice from the complaining
2 party.

- 3 3. Arbitration under this authority shall be
4 conducted under the Commercial Arbitration Rules
5 of the American Arbitration Association, except
6 that the arbitrators shall be attorneys who are
7 licensed members in good standing of the State
8 Bar of New Mexico or of the bar of another state.
9 The State will select one arbitrator, the Tribe a
10 second arbitrator, and the two so chosen shall
11 select a third arbitrator. If the third
12 arbitrator is not chosen in this manner within
13 ten (10) days after the second arbitrator is
14 selected, the third arbitrator will be chosen in
15 accordance with the rules of the American
16 Arbitration Association.
- 17 4. All parties shall bear their own costs of
18 arbitration and attorney fees.
- 19 5. The results of arbitration shall be enforceable
20 by an action for injunctive or mandatory
21 injunctive relief against the State and the Tribe
22 in any court of competent jurisdiction. For
23 purposes of any such action, the State and the
24 Tribe acknowledge that any action or failure to
25 act on the part of any agent or employee of the
State or the Tribe, contrary to a decision of the
arbitrators in an arbitration proceeding
conducted under the provisions of this section,

1 occurring after such decision, shall be wholly
2 unauthorized and ultra vires acts, not protected
3 by the sovereign immunity of the State or the
4 Tribe.

5 B. Nothing in Subsection 7A. shall be construed to
6 waive, limit or restrict any remedy that is otherwise
7 available to either party to enforce or resolve disputes
8 concerning the provisions of this Compact. Nothing in this
9 Compact shall be deemed a waiver of the Tribe's sovereign
10 immunity. Nothing in this Compact shall be deemed a waiver of
11 the State's sovereign immunity.

SECTION 8. Protection of Visitors.

12 A. Liability to Visitors. The safety and protection of
13 visitors to a Gaming Facility and uniformity and application
14 of laws and jurisdiction of claims is directly related to and
15 necessary for the regulation of Tribal gaming activities in
16 this state. To that end, the general civil laws of New Mexico
17 and concurrent civil jurisdiction in the State courts and the
18 Tribal courts shall apply to a visitor's claim of liability
19 for bodily injury or property damage proximately caused by the
20 conduct of the Gaming Enterprise and:

- 21 1. occurring at a Gaming Facility, other premises,
22 structures, on grounds or involving vehicles and
23 mobile equipment used by a Gaming Enterprise;
- 24 2. arising out of a condition at the Gaming Facility
25 or on premises or roads and passageways
immediately adjoining it;
3. occurring outside of the Gaming Facility but

1 arising from the activities of the Gaming
2 Enterprise;

- 3 4. as a result of a written contract that directly
4 relates to the ownership, maintenance or use of a
5 Gaming Facility or when the liability of others
6 is assumed by the Gaming Enterprise; or
7 5. on a road or other passageway on Indian lands
8 while the visitor is traveling to or from the
9 Gaming Facility.

10 B. Insurance Coverage for Claims Required. The Gaming
11 Enterprise shall maintain in effect policies of liability
12 insurance insuring the Tribe, its agents and employees against
13 claims, demands or liability for bodily injury and property
14 damages by a visitor arising from an occurrence described in
15 Subsection A of this section. The policies shall provide
16 bodily injury and property damage coverage in an amount of a
17 least one million dollars (\$1,000,000) per person and ten
18 million dollars (\$10,000,000) per occurrence. The Tribe shall
19 provide the State Gaming Representative annually a certificate
20 of insurance showing that the Tribe, its agents and employees
21 are insured to the required extent and in the circumstances
22 described in this section.

23 C. Limitation on Time to Bring Claim. Claims brought
24 pursuant to the provisions of this section must be commenced
25 by filing an action in court or a demand for arbitration
 within three years of the date the claim accrues.

 D. Specific Waiver of Immunity. The Tribe, by entering
 into this Compact and agreeing to the provisions of this

underscored material = new
[bracketed material] = delete

1 section, waives its defense of sovereign immunity in
2 connection with any claims for compensatory damages up to the
3 amount of one million dollars (\$1,000,000) per injured person
4 and ten million dollars (\$10,000,000) per occurrence asserted
5 as provided in this section. This is a limited waiver and
6 does not waive the tribe's immunity from suit for any other
7 purpose. The Tribe shall ensure that a policy of insurance
8 that it acquires to fulfill the requirements of this section
9 shall include a provision under which the insurer agrees not
10 to assert the defense of sovereign immunity on behalf of the
insured.

11 E. Election by Visitor. A visitor having a claim
12 described in this section may pursue that claim in the State
13 court of general jurisdiction for such claims or the Tribal
14 court or, at the option of the visitor, may proceed to enforce
15 the claim in binding arbitration. The visitor shall make a
written election that is final and binding upon the visitor.

16 F. Arbitration. Arbitration shall be conducted pursuant
17 to an election by a visitor as provided in Subsection E of
18 this section as follows:

- 19 1. the visitor shall submit a written demand for
20 arbitration to the Gaming Enterprise, by certified
21 mail, return receipt requested;
- 22 2. the visitor and the Gaming Enterprise shall each
23 designate an arbitrator within thirty (30) days of
24 the date of receipt of the demand, and the two
arbitrators shall select a third arbitrator;
- 25 3. the arbitration panel shall permit the parties to

- 1 engage in reasonable discovery, and shall
2 establish other procedures to ensure a full, fair
3 and expeditious hearing on the claim; and
4 4. the award of the arbitration panel shall be final
5 and binding.

6 G. Public Health and Safety. The Tribe shall establish
7 for its Gaming Facility health, safety and construction
8 standards that are at least as stringent as the current
9 editions of the National Electrical Code, the Uniform Building
10 Code, the Uniform Mechanical Code, the Uniform Fire Code and
11 the Uniform Plumbing Code, and any and all Gaming Facilities
12 or additions thereto constructed by the Tribe hereafter shall
13 be constructed and all facilities shall be maintained so as to
14 comply with such standards. Inspections will be conducted
15 with respect to these standards at least annually. If the
16 State Gaming Representative requests sufficiently in advance
17 of an annual inspection, the State Gaming Representative may
18 be present during such inspection. The Tribe agrees to
19 correct any deficiencies noted in such inspections within a
20 time agreed upon between the State and Tribe. The Tribal
21 Gaming Agency will provide copies of such inspection reports
22 to the State Gaming Representative, if requested to do so in
23 writing.

24 SECTION 9. Effective Date.

25 This Compact shall be effective immediately upon [the
occurrence of the last of the following:-

A. ~~execution by the Tribe's Governor after approval of
the Tribal Council;~~

1 ~~B. execution by the Governor of the State;~~
 2 ~~C. approval by the Secretary of the Interior; and~~
 3 ~~D.] publication of the notice of the Secretary of~~
 4 Interior's action or inaction in the Federal Register.

5 The Governor is authorized to execute [~~compacts~~] a
 6 compact with an individual Tribe [~~that has also entered into~~
 7 ~~revenue sharing agreements and has passed resolutions~~
 8 ~~described herein,~~] in substantially the same form as set forth
 9 herein. Upon signature by the Governor and the authorized
 10 official of the Tribe, the Compact shall be transmitted to the
 11 Secretary of the Interior for [~~approval~~] review and action
 12 pursuant to the IGRA.

SECTION 10. Criminal Jurisdiction.

13 A. The Tribe and the State acknowledge that under the
 14 provisions of § 23 of the IGRA, especially that portion
 15 codified at 18 U. S. C. § 1166(d), jurisdiction to prosecute
 16 violations of State gambling laws made applicable by that
 17 section to Indian country is vested exclusively within the
 18 United States, unless the Tribe and the State agree in a
 19 compact entered into pursuant to the IGRA to transfer such
 20 jurisdiction to the State.

21 B. The Tribe and the State hereby agree that, in the
 22 event of any violation of any State gambling law on Indian
 23 Lands or any other crime against the Gaming Enterprise or any
 24 employee thereof or that occurs on the premises of the Tribal
 25 Gaming Facility, that is committed by any person who is not a
 member of the Tribe, the State shall have and may exercise
 jurisdiction, concurrent with that of the United States, to

underscored material = new
 [bracketed material] = delete

1 prosecute such person, under its laws and in its courts.

2 C. Immediately upon becoming aware of any such suspected
3 crime by a nonmember of the Tribe, the Gaming Enterprise or
4 the Tribal Gaming Agency shall notify the state attorney
5 general and the district attorney for the district in which
6 the Gaming Facility is located, supplying all particulars
7 available to the tribal entity at the time. The Tribe agrees
8 that its law enforcement and gaming agencies shall perform
9 such additional investigation or take such other steps in
10 furtherance of the investigation and prosecution of the
11 violation as the district attorney may reasonably request, and
12 otherwise cooperate fully with the district attorney and any
13 state law enforcement agencies with respect to the matter, but
14 once notice of a suspected violation has been given to the
15 district attorney, the matter shall be deemed to be under the
16 jurisdiction of the State (except that in the event of
17 emergency circumstances involving a possible violation, the
18 Tribe and its constituent agencies shall have the discretion
19 to act as they see fit, and to call upon such other agencies
20 or entities as they deem reasonable or necessary, in order to
21 protect against any immediate threat to lives or property).
22 The State may, in its discretion, refer the matter to federal
23 authorities, but it shall notify the Tribal Gaming Agency upon
24 doing so.

25 D. The State agrees that no less frequently than
annually it will provide the Tribal Gaming Agency with a
written report of the status and disposition of each matter
referred to it under the provisions of this section that is

1 still pending. In the event the district attorney to whom a
 2 matter is referred under the provisions of this section
 3 decides not to prosecute such matter, the district attorney
 4 shall promptly notify the Tribal Gaming Agency of such
 5 decision in writing. The Tribal Gaming Agency may in that
 6 event ask the attorney general of the state to pursue the
 7 matter.

8 E. The district attorney for the district in which the
 9 Gaming Facility is situated may decline to accept referrals of
 10 cases under the provisions of this section unless and until
 11 the Tribe has entered into a Memorandum of Understanding with
 12 the office of the district attorney to which Memorandum of
 13 Understanding the United States Attorney for the District of
 14 New Mexico may also be a party addressing such matters as the
 15 specific procedures by which cases are to be referred,
 16 participation of the Tribal Gaming Agency and tribal law
 17 enforcement personnel in the investigation and prosecution of
 18 any such case, payments by the Tribe to the office of the
 19 district attorney to defray the costs of handling cases
 20 referred under the provisions of this section, and related
 21 matters.

22 SECTION 11. Revenue Sharing Provisions.

23 A. The Tribe agrees to contribute a portion of its Class
 24 III Gaming revenues to the State, in return for which the
 25 State agrees that the Tribe:

1. shall have the exclusive right within the State
to conduct the types of Class III Gaming described in the
Indian Gaming Compact, with the sole exception of the

underscored material = new
 [bracketed material] = delete

1 operation of Gaming Machines, which the State may permit on a
2 limited basis to be operated by racetracks and nonprofit
3 organizations; and

4 2. will share with the State that part of its
5 revenues derived from the operation of Gaming Machines and all
6 other revenue received by the Tribe from its gaming activities
7 is exclusively the Tribe's.

8 B. The parties agree that, after the effective date of a
9 Compact between the Tribe and the State, the Tribe shall make
10 the quarterly payments and contributions provided for in
11 Subsection D of this section to the state treasurer for
12 deposit into the State General Fund.

13 C. As used in this Compact, "net win" means the total
14 amount wagered at a Gaming Facility on Gaming Machines for a
15 stated period less the following amounts for the same period:

16 1. the amount paid out in prizes from gaming on
17 Gaming Machines;

18 2. the amount of regulatory fees paid to the state;
19 and

20 3. the sum of sixty-two thousand five hundred
21 dollars (\$62,500) per quarter as an amount representing tribal
22 regulatory costs, which amount shall increase by five percent
23 (5%) each year beginning on the first day of January occurring
24 after the Compact has been in effect for at least twelve
25 months.

D. The Tribe agrees to contribute for a quarter:

(1) six percent (6%) of the first one million five
hundred thousand dollars (\$1,500,000) of net win; and

1 (2) ten percent (10%) of amounts of net win over one
2 million five hundred thousand dollars (\$1,500,000).

3 E. For purposes of these payments, all calculations of
4 amounts due shall be based upon the quarterly activity of the
5 gaming facility. Quarterly payments due to the State pursuant
6 to these terms shall be paid no later than twenty-five (25)
7 days after the last day of each calendar quarter.

8 SECTION 12. Limitations.

9 The Tribe's obligation to make the payments provided for
10 in SECTION 11 of the Compact shall terminate in the event of
11 any of the following conditions:

12 A. if the State passes, amends or repeals any law, or
13 takes any other action that would directly or indirectly
14 attempt to restrict, or has the effect of restricting, the
15 scope of Indian gaming; or

16 B. if the State permits any expansion of nontribal Class
17 III Gaming in the State; provided, however, that none of the
18 following shall be considered an expansion of non-tribal Class
19 III Gaming for purposes of this Compact:

20 1. the operation of a State lottery;

21 2. the licensing of nonprofit organizations as
22 defined in the Gaming Control Act, to operate Gaming Machines
23 consistent with the provisions of Section 60-2E-28 NMSA 1978
24 as enacted in 1997;

25 3. limited fundraising activities conducted by
nonprofit tax-exempt organizations pursuant to Section 30-19-6
NMSA 1978; and

4. the licensing of horse racetracks to operate

underscored material = new
[bracketed material] = delete

1 Gaming Machines on days on which live or simulcast horse
2 racing occurs consistent with the provisions of Section
3 60-2E-27 NMSA 1978 as enacted in 1997.

4 SECTION 13. Termination of Compact on Default of Agreed Upon
5 Contributions.

6 If the Tribe is in default of its agreed upon
7 contributions in any amount due to the State pursuant to its
8 Compact or a Payment Agreement, the Gaming Control Board may
9 make a determination that the Compact entered into between the
10 Tribe and the State be terminated. To terminate the Compact,
11 the Gaming Control Board shall send a Notice of Default and
12 Intent to Terminate to the Tribe. The Compact shall terminate
13 automatically and without the need for further action thirty
14 days following the date on which the Notice of Default and
15 Intent to Terminate is received, unless the dispute resolution
16 provisions of the Compact are invoked or the default is cured
17 during that thirty-day period. If the dispute resolution
18 provisions are invoked, the Tribe has thirty days from the
19 date of the final decision resolving the dispute to pay the
20 amount determined to be due to the State. If payment is not
21 made within thirty days, the Tribe's Compact is terminated.
22 If the Notice of Default and Intent to Terminate is received
23 by the Tribe and it continues to operate gaming activities
24 beyond the thirty day period or if the dispute resolution
25 provisions are invoked and the final result does not provide
for continuation of gaming pursuant to the Compact, the State
may request the United States Attorney to take appropriate
action to terminate the Tribe's Compact pursuant to the IGRA.

1 SECTION 14. Compact Negotiated by Parties.

2 This Compact, as of the date it is signed by the
3 appropriate official of the Tribe and the Governor of the
4 State, is deemed to have been negotiated in good faith and
5 written by the parties who are signatories to this Compact.

6 SECTION 15. Revenue-Sharing Agreements Void.

7 On the date on which the action of or failure to act by
8 the Secretary of the Interior on this Compact entered into by
9 the Tribe and the State is published in the federal register,
10 the Revenue-Sharing Agreement entered into in 1997 between the
11 Tribe and the State is void.

12 SECTION ~~[11.]~~ 16. Binding Effect and Duration.

13 A. This Compact shall be binding upon the State and
14 Tribe for a term of [~~nine (9)~~] twelve (12) years from the date
15 it becomes effective [~~and may renew~~], less the amount of time,
16 if any, that the tribe has operated under a compact executed
17 in 1997, and may be renewed for an additional period.

18 B. Before the date that is one (1) year prior to the
19 expiration of the [~~ten-year (10-year) initial term, and/or~~]
20 term or before the date that is one (1) year prior to the
21 expiration of the renewal period, either party may serve
22 written notice on the other of its desire to renegotiate this
23 Compact.

24 C. In the event that either party gives written notice
25 to the other of its desire to renegotiate this Compact
pursuant to Subsection B. of this section, the Tribe may,
pursuant to the procedures of the IGRA, request the State to
enter into negotiations for a new compact governing the

underscored material = new
[bracketed material] = delete

1 conduct of Class III Gaming. If the parties are unable to
2 conclude a successor compact, this Compact shall terminate.

3 D. Notwithstanding the foregoing, at any time while this
4 Compact remains in effect, either party may, by written notice
5 to the other party, request reopening of negotiations with
6 respect to any provision of this Compact, or with respect to
7 any issue not addressed in the Compact, specifying such
8 provision or issue in such notice. No such request shall be
9 unreasonably refused, but neither party shall be required to
10 agree to any change in the Compact, and no agreement to
11 supplement or amend this Compact in any respect shall have any
12 validity until the same shall have been approved in writing by
13 the Tribe, the State and the Secretary of the Interior and
14 notice of such approval published in the Federal Register.

15 E. The Tribe may operate Class III Gaming only while
16 this Compact or any renegotiated compact is in effect.

17 SECTION ~~[12.]~~ 17. Notice to Parties.

18 Unless otherwise indicated, all notices, payments,
19 requests, reports, information or demand that any party hereto
20 may desire or may be required to give to the other party
21 hereto, shall be in writing and shall be personally delivered
22 or sent by first-class mail sent to the other party at the
23 address provided in writing by the other party. Every notice,
24 payment, request, report, information or demand so given shall
25 be deemed effective upon receipt or, if mailed, upon receipt
or the expiration of the third day following the day of
mailing, whichever occurs first, except that any notice of
change of address shall be effective only upon receipt by the

1 party to whom said notice is addressed.

2 SECTION [~~13-~~] 18. Entire Agreement.

3 This Compact is the entire agreement between the parties
4 and supersedes all prior agreements, whether written or oral,
5 with respect to the subject matter hereof. Neither this
6 Compact nor any provision herein may be changed, waived,
7 discharged or terminated orally, but only by an instrument, in
8 writing, signed by the Tribe and the State and approved by the
9 Secretary of the Interior. This Compact shall not be amended
10 without the express approval of the Tribe, the Governor of the
11 State and the State Legislature.

12 SECTION [~~14-~~] 19. Filing of Compact with State Records
13 Center.

14 Upon the effective date of this Compact, a copy shall be
15 filed by the Governor with the New Mexico Records Center. Any
16 subsequent amendment or modification of this Compact shall be
17 filed with the New Mexico Records Center.

18 SECTION [~~15-~~] 20. Counterparts.

19 This Compact may be executed by the parties in any number
20 of separate counterparts with the same effect as if the
21 signatures were upon the same instrument. All such
22 counterparts shall together constitute one and the same
23 document. ". "

24 Section 2. TEMPORARY PROVISION--RECONCILIATION OF PRIOR
25 REVENUE-SHARING PAYMENTS--PAYMENT AGREEMENT. --

A. If a tribe that has an existing Indian Gaming Compact
and revenue-sharing agreement executed in 1997 wishes to enter
into an Indian Gaming Compact pursuant to this act, the

underscored material = new
[bracketed material] = delete

1 governor of the state and the authorized official of a tribe
2 shall jointly prepare an accounting of all amounts due from
3 and contributed by the tribe to the state pursuant to the
4 terms of the revenue-sharing agreement that was in effect
5 between the tribe and the state beginning in 1997 and all
6 regulatory fees deducted from the tribe's gaming net win, as
7 defined in Section 11-13-1 NMSA 1978, and regulatory fees due
8 to the state pursuant to the terms of Paragraph 5 of
9 Subsection E of SECTION 4 of the Indian Gaming Compact between
the tribe and the state.

10 B. If the total amount contributed, as determined in
11 Subsection A of this section, is less than the amount owed,
12 the governor of the state and the appropriate official of the
13 tribe shall execute a payment agreement. The payment
14 agreement shall set forth the amount of the deficit owed to
15 the state by the tribe and specify the date by which and the
16 manner in which the tribe shall pay the amount of the deficit;
17 provided that the payment agreement shall provide that the
18 deficit owed by the tribe to the state shall be paid within
19 two years following the date of execution of the payment
20 agreement.

21 C. As used in this section, "tribe" means an Indian
22 nation, tribe or pueblo located in whole or in part in New
23 Mexico.

24 Section 3. LIMITED APPLICABILITY. --

25 A. The provisions of this act apply to an Indian
Gaming Compact executed between the state and a tribe after
the act's effective date only if:

underscored material = new
[bracketed material] = delete

1 (1) the tribe has no outstanding balance due the
2 state of money owed pursuant to an Indian Gaming Compact or to
3 a revenue-sharing agreement entered into between the tribe and
4 the state in 1997 pursuant to Section 11-13-1 NMSA 1978; or

5 (2) the tribe has an outstanding balance due the
6 state pursuant to Paragraph (1) of this subsection but has
7 entered into a payment agreement pursuant to Section 2 of this
8 act.

9 B. As used in this section:

10 (1) "outstanding balance due the state" includes
11 an amount that is disputed between the state and a tribe and
12 has been submitted to arbitration or become the subject of an
13 action in court in which there has been no settlement,
14 dismissal or final judgment entered; and

15 (2) "tribe" means an Indian nation, tribe or
16 pueblo.

17 Section 4. REPEAL. -- Section 11-13-2 NMSA 1978 (being
18 laws 1997, Chapter 190, Section 2) is repealed.