



## Gaming

**New Mexico gaming, even without the lottery, is a more-than-billion-dollar industry that generates hundreds of millions of dollars a year for tribes, racetracks, veteran and fraternal organizations, and state government. In addition to the college scholarships funded through the lottery, gaming generates close to \$150 million for the state general fund. Almost all of that comes through taxes on racetrack casinos – racinos – and payments from tribes, which pay a share of gaming revenues in exchange for a monopoly on table games and the right to operate slot machines along with racetracks and fraternal and veteran organizations.**

### What's Legal

Non-lottery gaming in New Mexico is managed by the State Racing Commission, which regulates horse racing and wagering, and the Gaming Control Board, which regulates charitable bingo, charitable raffles, and Class III gaming – slot machines and other casino-style games – at racetracks and fraternal and veterans clubs. The Gaming Control Board also oversees the gaming compacts between the state and tribes.

Horse racing has been legal in New Mexico since 1940 but casino-style gambling did not become legal until 1997, when the governor signed legislation authorizing the first compacts with tribes in the wake of the enactment of the federal Indian Gaming Regulatory Act. The lottery has been in place since 1995. Online gambling and betting on sports events are both illegal under federal law.

Under state law, racetracks can operate up to 750 slot or other electronic gaming machines and must pay a state tax equal to 26 percent of “net take,” wagers less prizes and certain other costs. Racinos must also allocate 20 percent of the net win to horse race purses, the money paid to winning horse owners. State laws allows nonprofit veteran and fraternal organizations to operate up to 15 machines for member use only. These clubs must pay 10 percent of the net take to the state.

### Tribal Gaming

The Indian Gaming Regulatory Act was triggered, in part, by a series of lawsuits between states and tribes over a state’s ability to regulate gaming on tribal land. Most significantly, the U.S. Supreme Court ruled in a suit brought by the Cabazon Band of Mission Indians of California that a tribe can operate any gambling already legal in the state free of state control. Tribes could not conduct gambling otherwise illegal in the state.

The federal act creates three classes of gaming with different rules for each. Class I and II games are exclusively under the

control of the tribe. Class I includes traditional Indian games and Class II covers bingo and similar games but specifically excludes any electronic games. Tribes must reach an agreement with the state to conduct Class III gaming, including slot machines, table games, and other casino-style gambling, and the gaming compact must be approved by the U.S. Interior Department.

New Mexico has gaming compacts, which are negotiated by the governor but must be approved by the Legislature before review by the Interior Department, with the Navajo Nation, Jicarilla and Mescalero Apache tribes, and Acoma, Pojoaque, Isleta, Laguna, Ohkay Owingeh, Sandia, San Felipe, Santa Ana, Santa Clara, Taos, Tesuque, Jemez, Nambe, Picuris and Zuni pueblos. Nambe, Jemez and Picuris pueblos do not currently operate casinos. Pojoaque Pueblo is operating under an expired compact while litigation and negotiations to renew continue.

While each tribe signs a separate compact, the agreements fall into two categories based on when they were negotiated. All of the agreements expire in 2037; however, revenue-sharing and other provisions differ. Depending on the volume of the net win – wagers less prizes and regulatory fees – the compacts call for tribes to shared between 2 percent and 10 percent of the net win.

### Lottery

Revenue from the various games operated by the New Mexico Lottery Authority supports the authority and lottery scholarships for New Mexico college students. For more information, see the *Finance Facts* on the lottery.

#### For More Information:

- The Gaming Control Act is found in Section 60-2E NMSA 1978.
- The 2013 LFC evaluation, *Operational Effectiveness of Gambling Oversight in New Mexico*, is available under program evaluations on the LFC website, [nmlegis.gov/lfc](http://nmlegis.gov/lfc).
- Information on the Committee on Compacts is available under committee information at [nmlegis.gov](http://nmlegis.gov).
- The New Mexico Gaming Control Board website is [nmgcb.org](http://nmgcb.org).
- The National Indian Gaming Commission website is [nigc.gov](http://nigc.gov).