

1 SENATE BILL 45

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

3 INTRODUCED BY

4 Timothy Z. Jennings

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10 AN ACT

11 RELATING TO GAMING; REDUCING THE AMOUNT OF REVENUE SHARING
12 FOR TRIBES WHO ARE CURRENT IN THEIR REVENUE-SHARING PAYMENTS;
13 DECLARING AN EMERGENCY.

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

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

18 "11-13-2. REVENUE SHARING OF TRIBAL GAMING REVENUE.--
19 The governor is authorized to execute a revenue-sharing
20 agreement in the form substantially set forth in this section
21 with any New Mexico Indian nation, tribe or pueblo that [~~has~~
22 ~~also entered into an Indian gaming compact as provided by~~
23 ~~law~~], as of January 25, 2000, has paid all money owed to the
24 state pursuant to the Revenue-Sharing Agreement entered into
25 between the state and the tribe in 1997. Execution of an
Indian gaming compact is conditioned upon execution of a
revenue-sharing agreement. The consideration for the Indian

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

7 "REVENUE-SHARING AGREEMENT

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

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

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

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

3. Calculation of Revenue to State.

A. As used in this Revenue-Sharing Agreement, "net

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1 win" means the annual total amount wagered at a Gaming
2 Facility on Gaming Machines less the following amounts:

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

5 (2) the actual amount of regulatory fees
6 paid to the state; and

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

13 B. Beginning with the quarter starting January 1,
14 2000, the Tribe shall pay the state sixteen percent [+16%]
15 eight percent (8%) of the net win until the quarter ending
16 March 31, 2000. Beginning with the quarter starting April 1,
17 2001, the Tribe shall again pay the state sixteen percent
18 (16%) of the net win.

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

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

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

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

24 5. Effect of Variance. In the event the acts or
25 omissions of the State cause the Tribe's obligation to make
payments under Paragraph 3 of this section to terminate under
the provisions of Paragraph 4 of this section, such cessation

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1 of obligation to pay will not adversely affect the validity
2 of the Compact, but the amount that the Tribe agrees to
3 reimburse the State for regulatory fees under the Compact
4 shall automatically increase by twenty percent (20%).

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

9 Section 2. EMERGENCY.--It is necessary for the public
10 peace, health and safety that this act take effect
11 immediately.