AN ACT

RELATING TO TRIBAL GAMING; SETTING REQUIREMENTS FOR THE
TERMINATION OF OBLIGATIONS PURSUANT TO REVENUE-SHARING
AGREEMENTS IN FUTURE STATE-TRIBAL GAMING COMPACTS.

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

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

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

A. The governor is authorized to execute a revenue-
sharing agreement [in the form substantially set forth in this
section] with any New Mexico Indian nation, tribe or pueblo
that has also entered into an Indian gaming compact as provided
by law. Execution of an Indian gaming compact is conditioned
upon execution of a revenue-sharing agreement. The
consideration for the Indian entity entering into the revenue-

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underscored material = new
[bracketed material] = delete

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

"REVENUE-SHARING AGREEMENT

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

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

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

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

3. Calculation of Revenue to State.

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

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

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

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

B. The Tribe shall pay the state sixteen percent (16%) of the net win.

C. For purposes of these payments, all calculations of amounts due shall be based upon the quarterly activity of the gaming facility. Quarterly payments due to the State pursuant to these terms shall be paid no later than twenty-five (25) days after the last day of each calendar quarter. Any payments due and owing from the Tribe in the 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.

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

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1   payments provided for in Paragraphs 2 and 3 of this section

2   shall apply and continue only so long as there is a binding

3   Indian Gaming Compact in effect between the Tribe and the

4   State, which Compact provides for the play of Class III Gaming,

5   but shall terminate in the event of any of the following

6   conditions:

7   A. If the State passes, amends, or repeals any law,

8   or takes any other action, which would directly or indirectly

9   attempt to restrict, or has the effect of restricting, the

10   scope of Indian gaming.

11   B. If the State permits any expansion of nontribal

12   Class III Gaming in the State. Notwithstanding this general

13   prohibition against permitted expansion of gaming activities,

14   the State may permit: (1) the enactment of a State lottery,

15   (2) any fraternal, veterans or other nonprofit membership

16   organization to operate such electronic gaming devices

17   lawfully, but only for the benefit of such organization's

18   members, (3) limited fundraising activities conducted by

19   nonprofit tax exempt organizations pursuant to Section 30-19-6

20   NMSA 1978, and (4) any horse racetracks to operate electronic

21   gaming devices on days on which live or simulcast horse racing

22   occurs.

23   5. Effect of Variance. In the event the acts or

24   omissions of the State cause the Tribe's obligation to make

25   payments under Paragraph 3 of this section to terminate under

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1   the provisions of Paragraph 4 of this section, such cessation

2   of obligation to pay will not adversely affect the validity of

3   the Compact, but the amount that the Tribe agrees to reimburse

4   the State for regulatory fees under the Compact shall

5   automatically increase by twenty percent (20%).

6   6.   Third-Party Beneficiaries.   This Agreement is not

7   intended to create any third-party beneficiaries and is entered

8   into solely for the benefit of the Tribe and the State.".]

9   B.   Pursuant to any future state-tribal class III

10   gaming compact, the obligations of a New Mexico Indian nation,

11   tribe or pueblo to provide revenue sharing to the state

12   pursuant to a revenue-sharing agreement pursuant to an Indian

13   gaming compact shall cease if the nation, tribe or pueblo has:

14   (1)   met its revenue-sharing obligations for

15   fifteen years; and

16   (2)   for a nation, tribe or pueblo that in the

17   year that it reports its largest amount of adjusted net win has

18   an annual adjusted net win of:

19   (a)   less than twenty million dollars

20   ($20,000,000), provided to the state a cumulative amount of

21   twenty million dollars ($20,000,000) pursuant to the

22   revenue-sharing agreement;

23   (b)   twenty million dollars ($20,000,000)

24   to forty million dollars ($40,000,000), provided to the state a

25   cumulative amount of forty million dollars ($40,000,000)

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pursuant to the revenue-sharing agreement;

(c) more than forty million dollars ($40,000,000) to eighty million dollars ($80,000,000), provided to the state a cumulative amount of eighty million dollars ($80,000,000) pursuant to the revenue-sharing agreement;

(d) more than eighty million dollars ($80,000,000) to one hundred twenty million dollars ($120,000,000), provided to the state a cumulative amount of one hundred twenty million dollars ($120,000,000) pursuant to the revenue-sharing agreement;

(e) more than one hundred twenty million dollars ($120,000,000) to one hundred sixty million dollars ($160,000,000), provided to the state a cumulative amount of one hundred sixty million dollars ($160,000,000) pursuant to the revenue-sharing agreement;

(f) more than one hundred sixty million dollars ($160,000,000) to two hundred million dollars ($200,000,000), provided to the state a cumulative amount of two hundred million dollars ($200,000,000) pursuant to the revenue-sharing agreement; or

(g) more than two hundred million dollars ($200,000,000), provided to the state a cumulative amount of more than two hundred fifty million dollars ($250,000,000) pursuant to the revenue-sharing agreement."

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