

Introduced by Senator BenoitFebruary 26, 2009

An act to amend Section 12012.90 of the Government Code, relating to tribal gaming.

LEGISLATIVE COUNSEL'S DIGEST

SB 495, as introduced, Benoit. Tribal gaming: revenue sharing.

Existing law creates in the State Treasury the Indian Gaming Revenue Sharing Trust Fund and the Indian Gaming Special Distribution Fund for the receipt and deposit of moneys received by the state from certain Indian tribes pursuant to the terms of gaming compacts entered into with the state, and authorizes moneys in those funds to be used for certain purposes. Existing law provides for the transfer of moneys from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund under certain circumstances. Existing law provides that, if that transfer results in a surplus, the funds shall remain in the Indian Gaming Revenue Sharing Trust Fund for disbursement in future years, and if necessary, adjustments shall be made to future distributions from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund.

This bill would make technical, nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 12012.90 of the Government Code is
- 2 amended to read:

12012.90. (a) (1) For each fiscal year commencing with the 2002–03 fiscal year to the ~~2004–05~~ 2004–05 fiscal year, inclusive, the California Gambling Control Commission shall determine the aggregate amount of shortfalls in payments that occurred in the Indian Gaming Revenue Sharing Trust Fund pursuant to Section 4.3.2.1 of the tribal-state gaming compacts ratified and in effect as provided in subdivision (f) of Section 19 of Article IV of the California Constitution as determined below:

(A) For each eligible recipient Indian tribe that received money for all four quarters of the fiscal year, the difference between one million one hundred thousand dollars (\$1,100,000) and the actual amount paid to each eligible recipient Indian tribe during the fiscal year from the Indian Gaming Revenue Sharing Trust Fund.

(B) For each eligible recipient Indian tribe that received moneys for less than four quarters of the fiscal year, the difference between two hundred seventy-five thousand dollars (\$275,000) for each quarter in the fiscal year that a recipient Indian tribe was eligible to receive moneys and the actual amount paid to each eligible recipient Indian tribe during the fiscal year from the Indian Gaming Revenue Sharing Trust Fund.

(2) For purposes of this section, “eligible recipient Indian tribe” means a noncompact tribe, as defined in Section 4.3.2(a)(i) of the tribal-state gaming compacts ratified and in effect as provided in subdivision (f) of Section 19 of Article IV of the California Constitution.

(b) The California Gambling Control Commission shall provide to the committee in the Senate and Assembly that considers the State Budget an estimate of the amount needed to backfill the Indian Gaming Revenue Sharing Trust Fund on or before the date of the May budget revision for each fiscal year.

(c) An eligible recipient Indian tribe may not receive an amount from the backfill appropriated following the estimate made pursuant to subdivision (b) that would give the eligible recipient Indian tribe an aggregate amount in excess of two hundred seventy-five thousand dollars (\$275,000) per eligible quarter. Any funds transferred from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund that result in a surplus shall revert back to the Indian Gaming Special Distribution Fund following the authorization of the final payment of the fiscal year.

(d) Upon a transfer of moneys from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund and appropriation from the trust fund, the California Gambling Control Commission shall distribute the moneys without delay to eligible recipient Indian tribes for each quarter that a tribe was eligible to receive a distribution during the fiscal year immediately preceding.

(e) For each fiscal year commencing with the ~~2005-06~~ 2005-06 fiscal year, all of the following shall apply and subdivisions (b) to (d), inclusive, shall not apply:

(1) On or before the day of the May budget revision for each fiscal year, the California Gambling Control Commission shall determine the anticipated total amount of shortfalls in payment likely to occur in the Indian Gaming Revenue Sharing Trust Fund for the upcoming fiscal year, and shall provide to the committee in the Senate and Assembly that considers the State Budget an estimate of the amount needed to transfer from the Indian Gaming Special Distribution Fund to backfill the Indian Gaming Revenue Sharing Trust Fund for the next fiscal year. The anticipated total amount of shortfalls to be transferred from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund shall be determined by the California Gambling Control Commission as follows:

(A) The anticipated number of eligible recipient tribes that will be eligible to receive payments for the next fiscal year, multiplied by one million one hundred thousand dollars (\$1,100,000), with that product reduced by the amount anticipated to be paid by the tribes directly into the Indian Gaming Revenue Sharing Trust Fund for the fiscal year.

(B) This amount shall be based upon actual payments received into the Indian Gaming Revenue Sharing Trust Fund the previous fiscal year, with adjustments made due to amendments to existing tribal-state compacts or newly executed tribal-state compacts with respect to payments to be made to the Indian Gaming Revenue Sharing Trust Fund.

(2) The Legislature shall transfer from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund an amount sufficient for each eligible recipient tribe to receive a total not to exceed two hundred seventy-five thousand dollars (\$275,000) for each quarter in the upcoming fiscal year an

1 eligible recipient tribe is eligible to receive moneys, for a total not
2 to exceed one million, one hundred thousand dollars (\$1,100,000)
3 for the entire fiscal year. The California Gambling Control
4 Commission shall make quarterly payments from the Indian
5 Gaming Revenue Sharing Trust Fund to each eligible recipient
6 Indian tribe within 45 days of the end of each fiscal quarter.

7 (3) If the transfer of funds from the Indian Gaming Special
8 Distribution Fund to the Indian Gaming Revenue Sharing Trust
9 Fund results in a surplus, the funds shall remain in the Indian
10 Gaming Revenue Sharing Trust Fund for disbursement in future
11 years, and if necessary, adjustments shall be made to future
12 distributions from the Indian Gaming Special Distribution Fund
13 to the *Indian Gaming* Revenue Sharing Trust Fund.

14 (4) In the event the amount appropriated for the fiscal year is
15 insufficient to ensure each eligible recipient tribe receives the total
16 of two hundred seventy-five thousand dollars (\$275,000) for each
17 fiscal quarter, the Department of Finance, after consultation with
18 the California Gambling Control Commission, shall submit to the
19 Legislature a request for a budget augmentation for the current
20 fiscal year with an explanation as to the reason why the amount
21 appropriated for the fiscal year was insufficient.

22 (5) At the end of each fiscal quarter, the California Gambling
23 Control Commission's Indian Gaming Revenue Sharing Trust
24 Fund report shall include information that identifies each of the
25 eligible recipient tribes eligible to receive a distribution for that
26 fiscal quarter, the amount paid into the Indian Gaming Revenue
27 Sharing Trust Fund by each of the tribes pursuant to the applicable
28 sections of the tribal-state compact, and the amount necessary to
29 backfill from the Indian Gaming Special Distribution Fund the
30 shortfall in the Indian Gaming Revenue Sharing Trust Fund in
31 order for each eligible recipient tribe to receive the total of two
32 hundred seventy-five thousand dollars (\$275,000) for the fiscal
33 quarter.

34 (6) Based upon the projected shortfall in the Indian Gaming
35 Revenue Sharing Trust Fund, for the ~~2005-06~~ 2005–06 fiscal year,
36 the sum of fifty million dollars (\$50,000,000) is hereby transferred
37 from the Indian Gaming Special Distribution Fund to the Indian
38 Gaming Revenue Sharing Trust Fund and is hereby appropriated
39 from that fund to the California Gambling Control Commission

1 for distribution to each eligible recipient tribe pursuant to this
2 section.

O