

## **SHORT BALLOT TITLE**

An initiative defining tribal video gaming machines and providing for amendment of state-tribal gaming compact providing for their use.

## **LONG BALLOT TITLE**

An initiative relating to Indian gaming; providing findings and purposes; clarifying public policy regarding Indian gaming; adding Idaho Code § 67-429B defining tribal video gaming machines as gaming machines used by Indian tribes which are not activated by a handle or lever, do not dispense coins, currency, tokens or chips, and which perform only certain defined functions, and defining such machines as neither slot machines nor imitations or simulations of any form of casino gaming; adding § 67-429C allowing amendment of state-tribal compacts to allow use of tribal video gaming machines; limiting the number of machines to those in a tribe's possession on January 1, 2002, allowing an increase of 5% per year not to exceed 25% over 10 years; requiring renegotiations of compacts after 10 years; providing a tribal contribution of 5% of annual net gaming income for educational programs and schools on or near the reservations; limiting gaming to Indian lands; providing amendment to state-tribal compacts upon certification to the Idaho Secretary of State of a tribal resolution; providing for automatic approval by State without necessity of executive or legislative action; making initiative effective upon completion of canvass of votes by Idaho Secretary of State' and containing a severability clause.

## **FULL TEXT**

Be it enacted by the People of the State of Idaho:

### **Section 1. Title.**

This act shall be known as the Indian Gaming and Self-Reliance Act.

### **Section 2. Findings and Purposes.**

The people of the State of Idaho recognize and declare the following:

- (1) For most of the last century, Indians on reservations in Idaho suffered from disproportionately high unemployment, severe poverty, and a lack of the basic social services available to most Americans. In 1988, federal law confirmed the right of Indian tribes to have limited, regulated gaming on their own land to provide jobs and to generate vitally-needed revenues for education, health care, housing, clean water supplies, roads and other basic services for tribal members and communities on or near reservations.
- (2) The Idaho Constitution provides that, except as authorized by the Congress of the United States, the State of Idaho has no jurisdiction or control over Indian lands. Congress has allowed states a limited role in Indian gaming by providing for the negotiation of gaming agreements, called compacts, between states and Indian tribes. Such compacts, which indicate how certain types of Indian gaming will be conducted in a state, were negotiated and agreed upon by the State of Idaho and various Indian tribes in Idaho beginning in 1992.
- (3) Since 1992, the tribes in Idaho have proceeded in good faith to make major investments in Indian gaming facilities, and those facilities have finally enabled the tribes to reduce unemployment and welfare and improve living conditions on their reservations. Moreover, Indian gaming has supported jobs for many Idahoans, benefitted the local economies of many Idaho communities, and saved taxpayers millions of dollars by reducing unemployment and welfare on and near reservations.
- (4) Now, however, the economic and social progress made by the Indian tribes in Idaho as a result of gaming is in serious jeopardy. Due to differences in opinion over the interpretation of Idaho law, these

tribes face legal uncertainties about the types of gaming machines they can operate on Indian lands. This uncertainty threatens the future of Indian gaming in Idaho and the ability of these tribes to continue their progress toward economic self-reliance.

(5) Attempts by the tribes and the governor to resolve these legal uncertainties have failed, jeopardizing the future of tribally-funded education, health care, and social service programs. Therefore, the citizens of Idaho desire to secure the future of tribal gaming on Indian lands in Idaho themselves through this ballot measure.

(6) This ballot measure clarifies that it is the public policy of the State of Idaho that Indian tribes can continue to operate the types of lottery-style gaming machines currently used at Indian gaming facilities on Idaho reservations under the terms of this act. It also sets reasonable limits on Indian gaming and gaming machines, and provides a mechanism for Indian tribes to share 5% of their net gaming income to support local educational programs and schools on or near reservations.

**Section 3. Chapter 4, Title 67, Idaho Code, is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-429B, Idaho Code, and to read as follows:**

**67-429B. AUTHORIZED TRIBAL VIDEO GAMING MACHINES.**

(1) Indian tribes are authorized to conduct gaming using tribal video gaming machines pursuant to state-tribal gaming compacts which specifically permit their use. A tribal video gaming machine may be used to conduct gaming only by an Indian tribe, is not activated by a handle or lever, does not dispense coins, currency, tokens, or chips, and performs only the following functions:

- (a) Accepts currency or other representative of value to qualify a player to participate in one or more games;
- (b) Dispenses, at the player's request, a cash out ticket that has printed upon it the game identifier and the player's credit balance;
- (c) Shows on a video screen or other electronic display, rather than on a paper ticket, the results of each game played;
- (d) Shows on a video screen or other electronic display, in an area separate from the game results, the player's credit balance;
- (e) Selects randomly, by computer, numbers or symbols to determine game results; and
- (f) Maintains the integrity of the operations of the terminal.

(2) Notwithstanding any other provision of Idaho law, a tribal video gaming machine as described in subsection (1) above is not a slot machine or an electronic or electromechanical imitation or simulation of any form of casino gambling.

**Section 4. Chapter 4, Title 67, Idaho Code, is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-429C, Idaho Code, and to read as follows:**

**67-429C. AMENDMENT OF STATE-TRIBAL GAMING COMPACTS.**

(1) Any tribe with an existing state-tribal gaming compact may amend its compact through the procedure set forth in subsection (2) below to incorporate all of the following terms:

- (a) As clarified by this compact amendment, the tribe is permitted to conduct gaming using tribal video gaming machines as described in Section 67-429B, Idaho Code.

(b) In the 10 years following incorporation of this term into its compact, the number of tribal video gaming machines the tribe may possess is limited to the number of tribal video gaming machines possessed by the tribe as of January 1, 2002, plus 25% of that number; provided, however, that no increase in any single year shall exceed 5% of the number possessed as of January 1, 2002. Thereafter, the tribe may operate such additional tribal video gaming machines as are agreed to pursuant to good faith negotiations between the state and the tribe under a prudent business standard.

(c) To the extent such contributions are not already required under the tribe's existing compact, the tribe agrees to contribute 5% of its annual net gaming income for the support of local educational programs and schools on or near the reservation. The tribe may elect to contribute additional sums for these or other educational purposes. Disbursements of these funds shall be at the sole direction of the tribe.

(d) The tribe agrees not to conduct gaming outside of Indian lands.

(2) To amend its compact to incorporate the terms set forth in subsection (1) above, a tribe shall deliver to the Secretary of State a tribal resolution signifying the tribe's acceptance of the terms. Immediately upon delivery of such tribal resolution to the Secretary of State, (a) the tribe's state-tribal gaming compact shall be deemed amended to incorporate the terms; (b) the tribe's compact as so amended shall be deemed approved by the state in accordance with Section 67-429A, Idaho Code, without the need for further signature or action by the executive or legislative branches of state government, and (c) except to the extent federal government approval is required, the newly incorporated compact terms shall be deemed effective immediately.

(3) Nothing in this section shall be construed to (a) indicate that any gaming activity currently conducted by any tribe is unauthorized or otherwise inappropriate under Idaho law or the tribe's existing compact, or (b) prohibit a tribe from negotiating with the state for an initial compact or a compact amendment regarding tribal video gaming machines or any other matter through a procedure other than the procedure specified in subsection (2) above or which contains terms different than those specified in subsection (1) above.

#### **Section 5. Effect.**

Notwithstanding any other provision of Idaho law, this act shall be in full force and effect after voter approval and immediately upon completion of the canvass of the votes by the Secretary of State. No further action by the executive or legislative branches of state government are required to implement the provisions of this act.

#### **Section 6. Severability.**

The terms of this act are severable such that if any term or provision is declared by a court of competent jurisdiction to be illegal, void, or unenforceable, the remaining provisions of this act shall continue to be valid and enforceable. It is the intent of the voters, that, to the extent any term or provision is declared to be illegal, void, or unenforceable, the legislature shall take all available steps to enact such term or provision in a legal, valid, and enforceable manner, whether through a statute or a proposed constitutional amendment.