

**NATIONAL
INDIAN
GAMING
COMMISSION**

DEC 7 1998

Honorable Spike Bighorn
Chairman, Assiniboine and Sioux Tribes
of the Fort Peck Indian Reservation
P.O. Box 1027
Poplar, Montana 59255

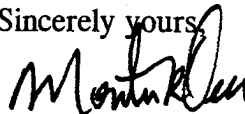
Dear Chairman Bighorn:

This letter responds to your request to review and approve the amendment to the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation's (Fort Peck) gaming ordinance submitted on September 14, 1998. The amendment to the ordinance was adopted by Fort Peck pursuant to Resolution No. 690-98-8 on August 6, 1998. The original ordinance was approved by the Chairman of the National Indian Gaming Commission (NIGC) on February 7, 1994.

Under the Indian Gaming Regulatory Act (IGRA) and the regulations of the NIGC, the Chairman is directed to review ordinances and amendments with respect to the requirements of the IGRA and the implementing regulations. Upon review I find that the amendment complies with IGRA and NIGC requirements and is accordingly approved.

Thank you for submitting the amendments to the tribal gaming ordinance of the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation. The NIGC staff and I look forward to working with you and the Community in implementing the IGRA.

Sincerely yours,



Montie R. Deer
Chairman

cc: Mary Pavel, Esquire

RESOLUTION #690-98-8

TRIBAL GOVERNMENT

WHEREAS, the Fort Peck Tribal Executive Board is the duly elected body representing the Assiniboine and Sioux Tribes of the Fort Peck Reservation and is empowered to act on behalf of the Tribes. All actions shall be adherent to provisions set forth in the 1960 Constitution and By-Laws and Public Law #83-449, and

WHEREAS, the Tribes consider that it would be advantageous to amend the Tribal Code governing gaming on the Reservation to permit individually owned Class II and Class III on the Reservation, and

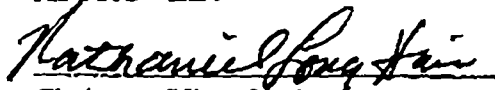
WHEREAS, the Tribes regulation and licensing of individually owned Class II and Class III operations shall be in strict compliance with the Indian Gaming Regulatory Act, 25 U.S.C. 2701 etseq. and the National Indian Gaming Commission's Regulations, now

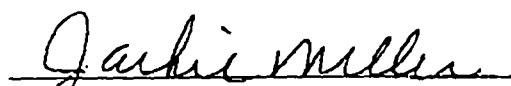
THEREFORE BE IT RESOLVED, that the amendments to Title III and Title XX amending the Tribal Code to permit individually owned video gambling devices, annexed as Exhibit 1, is hereby adopted and made part of the Tribes' Code of Justice.

CERTIFICATION

I, undersigned Secretary/Accountant of the Tribal Executive Board of the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, hereby certify that the Tribal Executive Board is composed of 12 voting members of whom **11**, constituting a quorum were present at a **Special Meeting** duly called and convened this **6th** day of **August, 1998**, that the foregoing resolution was duly adopted at such meeting by the affirmative vote of **ten for**.

APPROVED:


Chairman/Vice-Chairman
Fort Peck Tribal Executive Board


Secretary-Accountant/Secretary

Superintendent, Fort Peck Agency

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TITLE XX - LICENSING AND REGULATION OF
BINGO AND OTHER GAMES OF CHANCE

(THIS TITLE ADOPTED AS PER RESOLUTION
NO.'S 1729-88-12, DATED 12/12/88, AND
2084B-89-3, DATED 03/13/89.)

Chapter 1. Findings

Sec. 101. The Tribal Executive Board
finds:

(a) That operation of bingo and other games of chance by the Tribes and tribal subdivisions is a valid means of promoting tribal economic development and the health and welfare of tribal members;

(b) That, under the principles established by the United States Supreme Court in California v. Cabazon Band of Mission Indians, 94 L.Ed.2d 244 (1987), Indian tribes have the exclusive right to regulate gaming activity on Indian lands if the activity is not specifically prohibited by Federal law and is conducted within a state, such as Montana, which does not criminally prohibit the activity;

(c) That the United States Congress has recently enacted Public Law 100-497, the Indian Gaming Regulatory Act, providing for certain federal regulation of Indian gaming;

(d) That tribal regulation of gaming activity on the Reservation is vital to the protection of trust lands on the Reservation and to the protection of the interests of the Tribes and their members.

Chapter 2. Definitions

Sec. 201. Class I gaming.

"Class I gaming" means:

(a) Social games played solely for prizes of minimal value;

(b) Traditional forms of Indian gaming and bingo (as defined in Section 202) engaged in as a part of, or for the promotion of tribal ceremonies, celebrations, or powwows, provided that total gross receipts from such gaming, including bingo, do not exceed fifty thousand dollars (\$50,000.00) in any year for any single ceremony, celebration or powwow.

Sec. 202. Class II gaming.

The term "Class II gaming" means:

(a) Bingo.

The game of chance which is played for prizes, including monetary prizes, with cards bearing numbers or other designations, in which the holder of the card covers such numbers or designations when objects, similarly numbered or designed, are drawn or electronically determined, and in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards.

Electronic, computer or technological aids--such as computer-generated number sequences--can be used in connection with Class II bingo, so long as all players are playing against each other to achieve the same sequences. Computerized or "video" bingo, in which players play against the machine rather than against each other, are Class III games, subject to Chapter V of this Title.

Class II gaming shall not include bingo included as Class I gaming in Section 201.

(b) Other games of chance.

Games similar to bingo, including, if played at the same location as bingo, pull-tabs, lotto, punch boards, tip jars, and "instant bingo", in which prizes are awarded on the basis of a designated winning number or numbers, color or colors, symbol or symbols determined by chance.

Sec. 203. Class III gaming.

All forms of gaming that are not Class I or Class II gaming, including:

(a) Electronic or electromechanical facsimiles of any game of chance or slot machines of any kind, including "video bingo".

(b) All banking card games; that is, card games played against the house, including baccarat, chemin de fer, and blackjack.

Sec. 204. Traditional forms of Indian gaming.

(a) Gaming activities such as "stick" or "bone" games played as part of tribal ceremonies, celebrations, or powwows.

(b) Games such as rodeos or horse races, including those for which purses or prizes are awarded, that are played as part of tribal ceremonies, celebrations, or powwows. This does not include games operated prior to a ceremony, celebration, or powwow for the purpose of raising funds for the ceremony, celebration, or powwow; these are considered Class II games unless they meet the definition set forth in Section 205, below.

Sec. 205. Social games for prizes of minimal value.

Games in which the total value of prizes awarded during the calendar year does not exceed two thousand, five hundred dollars (\$2,500.00).

Sec. 206. Tribal subdivision.

(a) The community organization of each Reservation community.

(b) Nonprofit entities organized to raise funds and operate programs to promote the health and welfare of tribal members and/or to organize and operate ceremonies, celebrations, and powwows.

(c) Tribal school boards.

Sec. 207. Net revenues.

Gross revenues of gaming activity less amounts paid out as, or paid for, prizes and total operating expense, excluding management fees.

Sec. 208. Primary management official.

The manager of the gaming activity at each licensed site; also, any employee who reports directly to the manager and assists the manager directly with managerial functions.

Chapter 3. Class I Gaming

Sec. 301. Regulation of Class I gaming.

This Title does not apply to Class I gaming as defined in Chapter 2, except as provided in this Section. The Tribes reserve the right to inspect the premises where the Class I game is held and to obtain and review financial

information concerning the game in order to determine whether it meets the definition of a Class I game. In addition, Class I games may be subject to other tribal ordinance and regulations designed to protect the health and welfare of tribal members.

Chapter 4. Class II Gaming

Sec. 401. Regulation of Class II gaming.

(a) All Class II gaming operated by the Tribes, Indian organizations, or individual Indians within the Fort Peck Reservation shall be conducted according to the provisions of this Title.

Sec. 402. Ownership of Class II games.

All Class II games included within Section 401 must be solely owned by either the Tribes or a tribal subdivision. Ownership of Class II games by any other entity or any individual is prohibited. An entity shall be considered to "own" a game if it has the authority to direct distribution of the game's revenues.

Sec. 403. Status as a tribal subdivision

Each entity seeking designation as a tribal subdivision for the purpose of this Title shall file an application with the Tribal Executive Board. The Board shall prepare forms for this purpose. The application shall provide information on the nature and purpose of the entity and the programs it operates, and shall demonstrate that the uses to which it puts its funds conform to Section 409. This requirement is waived for the community organization of each reservation community; these organizations shall be designated as tribal subdivisions effective on enactment of this Title by

the Board. The decision of the Board on any application shall be final.

Sec. 404. Licenses for Class II gaming activities.

The Tribes shall issue a license for each place, facility, or location where Class II gaming is conducted. For each location licensed, and application must be filed that provides the following information:

(a) A description of the premises in which the game is to be held, and proof that the applicant is the owner of such premises, or lessee of such premises, for at least the term of the license;

(b) Agreement by the applicant to accept and abide by all applicable provisions of this Title and all conditions of the tribal license;

(c) Satisfactory proof that notice of the application has been posted in a prominent, noticable place in the Tribal Office and on the premises where the game is to be held for at least thirty (30) days prior to consideration by the Board, and published at least twice in a local newspaper serving the Reservation. The notice shall state the date, time and place when the application shall be considered by the Tribal Executive Board pursuant to Section 406.

Sec. 405. License fees and duration of license.

Each application shall be accompanied by a fee of fifty dollars (\$50.00). The license shall expire on December 31st of the calendar year in which it is issued.

Sec. 406. Hearing on application for a license.

All applications for a license shall be considered by the Tribal Executive Board in open session at which the applicant, his/her attorney and any person protesting the application shall have the right to be present, and to offer sworn oral or documentary evidence relevant to the application. After the hearing, the Board shall determine whether to grant or deny the application. In the event that the applicant is a member of the Board, or a member of the immediate family of a Board member, such member shall not vote on the application or participate in the hearing as a Board member. The decision of the Board shall be final.

Sec. 407. Conditions of the tribal license.

Any tribal license issued under this Title shall be subject to such reasonable conditions as the Board shall fix, including, but not limited to the following:

(a) The licensee shall at all times maintain an orderly, clean, and neat establishment, both inside and outside the licensed premises. The premises shall be in full compliance with Title XI, Health and Sanitation, of the Comprehensive Code of Justice;

(b) The licensed premises shall be subject to patrol by the tribal and BIA police force, for the purpose of enforcing tribal law, and the licensee shall cooperate at all times with such police and law officers;

(c) The licensed premises shall be open to inspection by duly authorized tribal officials and officials of the National Indian Gaming Commission at all times during the regular business hours;

(d) The premises covered by the tribal license shall be closed during polling hours on tribal election days, and on special days of observance, as designated by the Board;

(e) There shall be no discrimination in the operations under the tribal license by reason of race, color or creed, provided, however, that a licensee may give a preference in employment to Indians;

(f) No person who is under the age of eighteen (18) shall participate nor shall be allowed to participate in any manner in the operation of any game. No person who is under the age of eighteen (18) shall play in any bingo game or other games of chance. ~~No person under the age of eighteen (18) shall be allowed on premises where games are being conducted.~~ It shall be the responsibility of the licensee and those persons physically operating the games to determine that no unauthorized person is allowed to play in or participate in any manner in the operation of any bingo game;

(g) All licensees shall impose a uniform charge on all players for the bingo cards to be used in each bingo game. The rate to be charged players for cards shall be fixed by each licensee and posted conspicuously on the premises. No person shall be allowed to play in a game without first paying this uniform charge, with the exception that free games may be awarded as prizes. Each person paying for the opportunity to participate in a bingo game shall be given a bingo card which shall be numbered. Each card issued shall represent a specific amount of money which has been paid to the licensee. The amount of prize money represented by each card issued shall be clearly made known to all players prior to anyone paying to participate in the activity;

(h) Bingo cards shall be sold and paid for, only in advance for use in a specified game or games. All sales of bingo cards shall take place upon the premises and upon the occasion that the bingo games for which the card is being sold are conducted. No cards may be sold on credit or as a gift or loan of any kind whatever;

(i) No operator shall allow a person who manages or receives any compensation, directly or indirectly, for the operation of any bingo game conducted by the operator to play in a bingo game or game of chance while on duty;

(j) Each numbered ball, or other device, used in a bingo game for the selection of numbers to be called in play shall be the same weight as each of the other balls or devices used for the purpose in that game. Immediately following the calling of each number in a bingo game, the caller shall turn the portion of the ball or other device used to determine which number is called which shows the number and letter to the participants in the game so that participants may know that the proper number has been called out. Nothing in this Section shall prohibit the use of electronic, computer or other technological aids in games of bingo or other games of chance provided that such aids are used properly and fairly;

(k) No beverage containing alcohol, including but not limited to, beer or liquor, shall be offered or awarded as a prize or in lieu of a prize for winning at any of the activities authorized by this Title;

(l) No firearms, air guns which are capable of discharging dangerous projectiles, including but not limited to B.B.'s or CO2 guns, rifles, shotguns, pistols, or revolvers; shall be offered or awarded as a prize or in lieu of a prize for winning at any of

the activities authorized by this ordinance;

(m) No person involved in the operation of any activity authorized by this ordinance shall, directly or indirectly, in the course of such operation employ any device, scheme, or artifice to defraud; make any untrue statement of a fact, or omit to state a fact necessary in order to make a statement not misleading in consideration of the circumstances under which such statement was made; engage in any act, practice, or course of operation as would operate as a fraud or deceit upon any person;

(n) Each licensee shall display its license in a conspicuous location in the gaming establishment.

Sec. 408. Assignment or transfer.

No license issued under the ordinance shall be assigned or transferred.

Sec. 409. Cancellation and suspension.

The licensee must have, and exercise complete control over the premises being used for bingo or other games of chance at all times said games are being played. The licensee and his/her employees shall be legally responsible for any violation of the Title. Any license issued hereunder may be cancelled by the Tribal Executive Board for the breach of any of the provisions of this ordinance or of the tribal license, upon hearing before the board, after ten (10) days notice of the claimed breach to the licensee. If the Tribes are the licensee, notice shall be served on the manager of the tribal operation. The time and place of the hearing shall be posted in the tribal office, and if time permits, in a local newspaper serving the Reservation. The licensee, manager, their attorney and

any person affected by the license shall have the right to be present and to offer sworn oral or documentary evidence relevant to the breach charged. A license may be suspended during the ten (10) day period by a three quarters (3/4) vote of the Board at a meeting at which a quorum is present. The decision of the Board shall be final.

Sec. 410. Uses of net revenues of gaming activities.

Net revenues of the gaming activity must be used for the following purposes:

(a) To fund tribal government operations or programs;

(b) To provide for the general welfare of the Indian tribe and its members, including to fund programs operated by a tribal subdivision that contribute to the general welfare;

(c) To promote tribal economic development;

(d) To donate to charitable organizations; or

(e) To help fund operations of local government agencies, including tribal subdivisions.

Sec. 411. Annual outside audit.

Each licensee, including the Tribes, shall arrange for an annual outside audit of the operation for presentation to the National Indian Gaming Commission. The audit shall examine the uses of the net revenues and all contracts for amounts in excess of twenty five thousand dollars (\$25,000.00) annually (except contracts for legal or accounting services). The tribal subdivisions shall provide their audit reports to the Tribes for review

at least thirty (30) days before they are due at the Commission, and the Tribes shall forward all audit reports to the Commission.

Sec. 412. Reports to the Tribes.

Each licensee shall submit to the Tribal Executive Board, on a quarterly basis, a financial report for the previous quarter's operations. Such reports shall be signed, under oath, by an official or representative of the licensee, who in the case of a tribal operation shall be the operation's manager. The reports shall document:

(a) Monthly attendance at scheduled gaming events;

(b) Gross receipts for each month;

(c) Names of each employee and the salary or other compensation paid to each;

(d) All expenses in the operation of the games, specifying all payments to vendors and contractors;

(e) The amount paid in prizes each month;

(f) All bank deposits made from proceeds of the bingo games, including any interest received on such deposits;

(g) All bank withdrawals, and the purpose of each;

(h) All expenditures of net proceeds including the amount, person or organization paid, date, and purpose of such expenditures.

Sec. 413. Investigations, oversight, and licensing of primary management officials and key employees of the gaming activity.

(a) Before hiring any primary management official or other key employee of the gaming activity, the licensee shall conduct a background investigation of that individual. The investigation shall consist, at a minimum, of a criminal background check to determine whether the individual has a tribal, state, or federal criminal record; a review of the individual's financial history; and an inquiry into the individual's reputation, habits, and associations within the Indian community. The latter shall include interviews with all of the individual's previous employers during the past three (3) years, unless these employers cannot be located.

(b) No one who has been convicted of a felony in any tribal, state or federal court, shall be eligible for employment as a primary management official or other key employee. No one whose prior activities, criminal record, reputation, habits, and associations would pose a threat to the public interest or to the effective regulation of gaming on the Reservation, or create the danger of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming shall be eligible for employment as a primary management official or other key employee.

(c) Following successful completion of the background investigation, the licensee shall forward to the Tribal Executive Board the results of the investigation, and the Board shall issue a license to the employee. The Board shall forward to the National Indian Gaming Commission the results of the investigation, and if no adverse action is taken by the

Commission within ten (10) business days, issue a license to the employee.

(d) Each license shall be effective for a period of one (1) year. Prior to expiration of the license, the licensee shall update the information produced during the original investigation, and if the individual still meets the applicable standards, the Board shall renew the license for another year. Notice of any such renewals shall be forwarded to the National Indian Gaming Commission.

(e) If the National Indian Gaming Commission informs the Tribes that based on reliable information, a primary management official or other key employee does not meet the federal standards for such employees, as set forth in Public Law 100-497 and this Section, the Tribes shall suspend the license of that employee. After at least ten (10) days notice to the employee affected, the Tribes shall hold a hearing to determine whether the license should be permanently revoked. The employee may be represented by an attorney at his/her own expense and present and cross examine witnesses. The Board's decision on revocation of the license shall be final.

(f) Each licensee shall be responsible for designating the managers, direct assistants to the manager, and other key employees of its gaming activities. At least one (1) employee shall be designated for each place, facility, or location where gaming is conducted.

Sec. 414. Raffles.

Nothing in this Title shall be construed to prohibit any raffle or like activity conducted by a religious, charitable or other non-profit organization as permitted by Section 415(b)(3) of Title III of the Code of Justice, or to require such organization

to obtain a license to operate such a raffle.

Sec. 415. Criminal penalties.

Operations of a Class II gaming activity without a license shall constitute a Class A misdemeanor. Violation of any other provision of Chapter IV of this Title shall constitute a Class B misdemeanor.

Chapter 5. Class III Gaming

Sec. 501. Class III gaming contingent on compact with the State.

Operation of any Class III game on trust land, and of any Class III game within the Reservation by the Tribes, an Indian organization, or individual Indian shall constitute a Class A misdemeanor unless the game is authorized by a tribal/state compact approved by the Secretary. Any such compact shall conform to the requirements set forth in Public Law 100-497 for such compacts, and shall also conform to Chapter IV of this ordinance, unless any provisions of Chapter IV are specifically modified by the compact.

Sec. 502. Request for negotiations with the State.

Within a reasonable time after enactment of this Title, the Tribal Executive Board shall request negotiations with the State for a compact that permits operation of "video bingo" and any other Class III games that are permitted by the State for any purpose by any person, organization, or entity and that are determined by the Executive Board to be in the best interest of the Tribes and its members.

Chapter 6. Self-Regulation of Gaming Activities

Sec. 601. Petition for certification of self-regulation.

Under Public Law 100-497, the Tribes and any tribal subdivision that operates a licensed gaming activity pursuant to this Title, and has operated the gaming activity for at least three (3) years, including at least one (1) year after October 17, 1988, is eligible to petition the National Indian Gaming Commission for a certificate of self-regulation. Such a certificate exempts the Tribes or tribal subdivision from certain regulatory requirements under Public Law 100-497. When the Tribes or any tribal subdivision meets the requirements for duration of the gaming activity set forth above, it shall review the standards set forth in Section 11 of Public Law 100-497 and determine whether it wishes to file a petition for self-regulation would be appropriate.

Sec. 602. Waiver of tribal requirements based on certificate of self-regulation.

If any licensee under this Title is granted a certificate of self-regulation by the Commission, the requirements of Section 411 of this Title shall be waived as to that licensee. All other requirements shall continue in full force and effect. If the certificate of self-regulation is revoked, the requirements of Section 411 shall be reinstated.

Chapter 7. National Indian
Gaming Commission

Sec. 701. Authority of the Commission.

Public Law 100-497 creates the National Indian Gaming Commission and grants the Commission and its Chairman certain regulatory authority over Indian gaming activities, including the authority to:

(a) Monitor Class II gaming activities;

(b) Inspect and examine all premises located on Indian lands on which Class II gaming is conducted;

(c) Conduct or cause to be conducted such background investigations as may be necessary;

(d) Demand access to and inspect, examine, photocopy, and audit all papers, books, and records pertaining to the gaming activity;

(e) Promulgate such regulations and guidelines as it deems appropriate to implement the provisions of Public Law 100-497, including regulations for the assessment and collection of civil fines against Indian gaming activities as authorized by Section 14 of Public Law 100-497;

(f) Establish the fees to be paid by Indian gaming activities in order to fund the Commission's operations.

Sec. 702. Failure to cooperate with
the Commission.

All licensees under this Title shall cooperate fully with all lawful regulations, guidelines, and orders of the Commission. Failure to do so shall constitute a Class A misdemeanor and

shall also constitute grounds for revocation of the tribal license.

Sec. 703. Commission regulations and guidelines superseding this Title.

Any regulations and guidelines adopted by the Commission that are inconsistent with any provisions of this Title shall supersede that provision, unless the Commission grants a waiver. In such a case, the Board shall promptly amend this Title so that it conforms to the Commission's regulations and guidelines.

SEP 14 1998

FOURTH AMENDMENT TO THE APRIL 6, 1992 AGREEMENT BETWEEN THE ASSINIBOINE AND SIOUX TRIBES OF THE FORT PECK RESERVATION AND THE STATE OF MONTANA CONCERNING VIDEO KENO, POKER AND BINGO GAMES, SIMULCAST RACING AND OTHER CLASS III GAMING

The purpose of this amendment to the Fort Peck-Montana Compact is to authorize the Tribes to license individual Indians to operate gaming on the Fort Peck Reservation. The Tribes and the State pursuant to Article VIIIB of the Agreement between the parties agree as follows:

- 1. Section IVC is amended to read as follows:

"The Tribes may license any Indian to own and operate a gaming operation on the Reservation so long as such operation is consistent with all provisions of this Compact and with the Indian Gaming Regulatory Act. Whenever an interest in any gambling license or permit is owned in whole or in part by a non-Indian, the State of Montana shall regulate those gambling activities."

- 2. Section VA2 is amended to read as follows:

"2. All gaming authorized under Section A of Article IV shall be conducted by the Tribes directly or by an Indian licensed by the Tribes to operate such gaming."

- 3. Section VB1 is amended to read as follows:

"1. Prize limits at tribally owned premises may not exceed a value higher than \$1000.00 for each individual award. No more than twenty (20) machines per premise shall be available for play by individual tribally-licensed operators with a maximum payout of \$800.00 for each individual award or a payout equal to that which is allowed under state law, whichever is greater."

- 4. All terms and conditions of the April 6, 1992 agreement not specifically amended herein remain in full force and effect.

ASSINIBOINE AND SIOUX TRIBES OF THE FORT PECK RESERVATION

Spike Bighorn

Spike Bighorn, Chairman

7-22-98

Date

STATE OF MONTANA

Marc Racicot

Marc Racicot, Governor

8-6-98

Date

Joseph P. Mazurek
JOSEPH P. MAZUREK
Attorney General