



Senator Feinstein Raises Concern about Congressional Efforts to Limit the Ability of States to Negotiate Fair Revenue Sharing Agreements with Tribes

- Pending Bill Could Also Ease Federal Oversight of Gaming Devices -

April 2, 2004

Washington, DC –U.S. Senator Dianne Feinstein (D-Calif.) raised concern today about legislation that could limit the ability of states to negotiate fair revenue sharing agreements with Indian Tribes operating casinos, which could have a detrimental impact on California and other states.

In letters to Attorney General John Ashcroft and the Senators Ben Nighthorse Campbell (R-Colo.) and Daniel Inouye (D-Hawaii), Senator Feinstein said the Senators' bill (S.1529) to amend the Indian Gaming Regulatory Act of 1988 could also ease federal oversight of certain gaming machines.

Senators Campbell and Inouye are the chairman and ranking member of the Indian Affairs Committee. They held a hearing on their legislation on Wednesday.

In her letters, dated April 1, Senator Feinstein said:

“I believe that this legislation could weaken IGRA and have a detrimental impact on my state. California is home to 110 federally-recognized tribes, 64 of which already have ratified compacts to engage in Class III gaming. In 2002, California alone accounted for almost half of nation-wide Indian gaming revenues, and my state is now second only to Nevada in the size of its gaming industry. With this in mind, I am concerned about provisions in this legislation that could:

- limit the ability of states to negotiate fair and appropriate revenue sharing agreements with tribes; and
- exempt certain Class II gaming devices from federal oversight.

In regard to revenue sharing, I believe this legislation could restrict the rights of states and local governments to receive fair compensation from tribes. Agreements reached in tribal-state compacts have always played an important role in directing funding to both the State and local communities in order to mitigate costs associated with casino development including transportation, sanitation, law enforcement and zoning. In fact, I was recently contacted by Governor Arnold Schwarzenegger who contends that, if passed, this bill could significantly hinder the ability of the State of California to negotiate with tribes on these matters.

Specifically, this bill would prevent the Secretary of Interior from approving revenue sharing in a tribal-state compact unless the State provides the tribe “a substantial economic benefit.” In addition, any tribal revenues paid out to the State could only come on top of the cost of funding “tribal government operations” and “providing for the general welfare” of the tribe. While I support protecting the rights and economic viability of the tribes, I fear the real effect of this provision could be to limit the State’s power in compact negotiations.

S. 1529 also seeks to exempt some Class II gaming devices from federal jurisdiction under the Johnson Act (U.S.C. 1171 through 1177). For example, it would treat Class II gaming in which an “electronic aid, computer, or other technological aid” was utilized as separate from the Johnson Act -- thereby precluding such gaming from an appropriate oversight process. This is particularly disturbing in light of recent technology that has led to the development of Class II gaming devices that look and function like slot machines, but are not regulated under the compact process. If this legislation were to pass, it could lead to the proliferation of these sorts of gaming machines throughout California without adequate state or federal regulation, and could lessen the incentive for tribes to pursue gaming compacts.

While I respect the rights of tribes to engage in gaming under federal and state law, I have grown deeply concerned about the proliferation of off-reservation gaming and the trend toward reservation “shopping” funded by out-of-state gaming interests. Currently there are nearly 30 tribal proposals for developing gaming on off-reservation sites in California. In my view, we must do a better job at enforcing existing regulations and strengthening scrutiny of off-reservation gaming proposals to ensure that federal, state, and local governments are given appropriate oversight.”

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