



Bishop Paiute Tribe
Gaming Net Revenue Allocation Plan
Fiscal Year 2004

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Section I. Definitions

Per Capita Payments:

For purposes of this plan, the term “per capita payment” means payments made to or for the benefit of eligible tribal members from net gaming revenues, as those terms are defined herein, pursuant to this plan.

Net Gaming Revenues:

For purposes of this plan, the term “net gaming revenues” means gross revenues of all gaming activities conducted by the Tribe, less the following types of expenditures:

- Amounts paid out as or paid for prizes;
- Total operating expenses which include but are not limited to taxes, regulatory fees, and reasonable management fees;
- ~~Capital expenditures;~~
- All other monies retained or held by or for the benefit of the tribal gaming activity.

Eligible Tribal Member:

For purposes of this plan, the term “eligible tribal member” means all persons who are duly enrolled as members of the Bishop Paiute Tribe whose name appears on the official tribal enrollment records, in compliance with the tribal enrollment ordinance. Such rolls shall be reviewed and approved by the Tribal Council prior to each distribution as set forth in this plan.

General Council:

For purposes of this allocation plan are those tribal members who are in good standing and are eligible to vote in tribal elections.

Minor:

For purposes of this plan, the term “minor” means a person under the age of 18 years old.

Section II. Resolution and Repeal of Inconsistent Legislation

This plan shall govern the allocation of available net revenues from tribally owned gaming enterprise(s), including per capita distributions to Eligible members of the Bishop Paiute Tribe.

Section III. Policy

This plan shall comply with the Indian Gaming Regulatory Act of 1988, 25 U.S.C., Sec. 2701, et seq., (IGRA) and all other applicable federal law. The Bishop Paiute Tribe shall use revenues generated by tribal gaming establishments primarily to strengthen the tribal government, tribal self-sufficiency and to support tribal economic development. The Bishop Paiute Tribe shall ensure that tribal governmental operations and programs and tribal economic development shall receive the necessary financial support from net gaming revenues prior to distributing such revenues for other purposes.

The Bishop Paiute Tribe is committed to providing long-term security for itself and its tribal members. Accordingly, the Bishop Paiute Tribe shall ensure that net gaming revenues are allocated towards investments, programs, and projects that impact not only present needs, but also anticipate future needs. In addition, the Bishop Paiute Tribe shall ensure that investments, programs and projects funded by net gaming revenues are aimed toward improving tribal conditions and the life opportunities of tribal members from generation to generation.

The Tribe is committed to the education of its children. Specifically, the Tribe seeks to increase the high school graduation rates of its tribal members, and encourage its tribal members to pursue degrees in colleges, universities or vocational schools. Accordingly the Tribe shall tailor its distribution of per capita payments to minor tribal members so as to encourage these minors to complete their schooling.

Section IV. Use of Net Gaming Revenue, Tribal Economic Development

- A. The Bishop Paiute Tribal Council in accordance with the allocation plan approved by the General Council hereby allocates twenty-five percent of net gaming revenues in order to provide funding for tribal economic development.
- B. Investments in economic development will include land management, development, and infrastructure costs for retail, commercial, and industrial projects; business location, relocation and expansion; business creation and development, including a tribal credit union; economic development planning and other organic documents relating to economic development; and similar activities.

Section V. Use of Net Gaming Revenues: Tribal Governmental Operations and Programs

- A. The Bishop Paiute Tribal Council in accordance with the allocation plan approved by the General Council hereby allocates twenty percent of net Gaming Revenues in order to provide supplemental funding for tribal governmental operations and programs.
- B. Tribal Governmental operations and programs to be funded by net gaming revenues under this section may include, but shall not be limited to, the following: tribal operating reserves, Tribal Council, tribal administration, capital improvements to tribal offices, tribal public works program, tribal planning program, tribal museum, land acquisition program, and tribal cultural programs. Additionally, funding for other tribal governmental operations and programs being developed and hereafter developed shall be included within this provision.
- C. Within sixty days prior to the commencement of each fiscal year, the Tribal Council Budget Committee shall receive budget reports and requests for each tribal governmental operation and program listed in section V.B., as may be applicable. The budget reports shall detail at a minimum: past fiscal year revenues, projected revenues, revenues sources, including the amount of net revenues derived from gaming enterprises together with detailed accounting for expenditures. The budget reports shall also include budget requests including requests for supplemental funding from net gaming revenues allocated to funding for tribal governmental operations and programs.
- D. The Tribal Council with a minimum of four Council Members present, and after receiving all budget reports and requests under this Section, allocate those funds designated for governmental operations and programs. This allocation shall occur with the adoption of the then current fiscal year budget. The Tribal Council shall be the sole decision making body as to any actions taken upon budget reports and requests and as to the allocation of funds designated for tribal governmental operations and programs.

Section VI. Use of Net Gaming Revenues: General Welfare of the Tribe and its Members

- A. The Bishop Paiute Tribal Council in accordance with the allocation plan approved by the General Council allocates fifteen percent of net gaming revenues in order to provide supplemental funding for the general welfare of the Tribe and its tribal members.

- B. Within sixty days prior to the commencement of the fiscal year, the Tribal Council or its designee, shall meet with all tribal social service related staff and consultants to consider the social service and general welfare needs of tribal members and to review needs assessments and budget reports and request of any social service tribal program not included in Section V. These general welfare programs may include, but shall not be limited to, a utility assistance program, irrigation and drainage programs, enrollment program, tribal housing improvement program, tribal social services programs, tribal community health representative, tribal health services, health insurance, life insurance, Indian child Welfare Act Tribal program, tribal clean-up program, tribal education program, scholarships, school food service program, tribal parenting program, summer youth workers program, tribal library, tribal recreation program, youth sports, tribal elderly program, veterans group, a funeral assistance program, and a tribal housing assistance program. The needs assessments and budget reports and requests shall be prepared in accordance with the requirements set forth in Section V(C) above.

Section VII. Use of Net Gaming Revenues: Individual Per Capita Payments

A. General

1. In order to advance the personal health, safety and welfare of eligible Bishop Paiute tribal members, the Tribal Council in accordance with the allocation plan approved by the General Council hereby allocates forty percent of all net gaming revenues to be divided into equal shares and paid to all eligible tribal members, pursuant to the IGRA, SEC. 2710(3)(A) thru (D).
2. Per capita payments to eligible tribal members shall be made bi-annually unless per capita distribution funds do not exceed \$100,000. All net gaming revenues designated for distribution as per capita payments shall be deposited, when received by the Tribe from the Tribal gaming enterprise, into a low-risk interest bearing account with a federally insured financial institution prior to distribution. For purposes of this subsection, said deposits shall be made not less frequently than annually and shall be made in accordance with the percentage allocation set forth above. Interest earned prior to distribution on net gaming revenues deposited in this account shall be distributed as part of the per capita payments.

A list of eligible tribal members shall be prepared by the Tribal enrollment office and presented to the Tribal Council and shall be approved by the Tribal Council not less than 30 days prior to the date established for distribution of a per capita payment. Any person who becomes eligible for a

per capita payment after the Tribal Council's approval of a per capita payment list shall not be entitled to such payment.

3. The receipt of distributions under this plan is a privilege of tribal membership. As such, payments will only be made to tribal members who are in good standing. Good standing means that the tribal member has no outstanding debts to tribal government or any tribal organization that provides goods or services to the Bishop Paiute Reservation. Good standing also means that the tribal member is in full compliance with Tribal Ordinances, Tribal Council resolutions, Tribal Court orders, decisions and judgments. Any tribal entity that has an outstanding debt owed to that entity, for which it will seek to have a tribal members distribution share withheld, shall submit its request at least thirty days prior to the distribution.

If a tribal member is not in good standing at the time of distribution, then all of that tribal members distribution share will be withheld to satisfy the tribal members outstanding obligations. Any remaining balance will be forwarded to the tribal member less a fifty-dollar administrative charge required to process the obligations.

In the event that the obligations of the tribal member are non-monetary then the tribal members distribution share will be withheld until the individual satisfies the obligation. If the Tribal Council determines that the individual has failed to comply within thirty days, then the tribal members share for that particular distribution will be returned to the gaming net revenue distribution fund. An example is a tribal member refusing to vacate a tribal housing unit. In addition to any other tribal remedies, the tribal members distribution share would be withheld. If the individual continued to fail to vacate as required then the gaming net revenue distribution share would be returned to the gaming net revenue distribution fund for inclusion in the next distribution.

B. Procedure for Protecting the Interest of Legally Incompetents

1. Any eligible adult member of the Tribe who has been determined by a court of competent jurisdiction to be legally incompetent shall be eligible for per capita payments under this plan, subject to the provisions of this section. Per capita payments will be made on behalf of legally incompetent adult members to their duly appointed guardian, custodian or conservator as set forth below.
2. The Tribal Council shall place into trust a low-risk interest bearing account in a federally insured financial institution it finds satisfactory, the per capita payments, or any portion or percentage thereof, of any individual who is declared incompetent by a court of competent jurisdiction. The Tribal Council or its appointed agent shall make disbursements to the court

appointed guardian for the purposes of providing for the incompetent's health, education or welfare on a case by case basis upon a demonstration to the satisfaction of the Tribal Council based upon the following criteria:

- (a) That the person requesting the withdrawal of monies on behalf of the legal incompetent is the court appointed guardian of the legal incompetent in question, and,
- (b) That the money will be used, and is necessary, for the personal health, safety, welfare, or educational needs of the incompetent.

3. Denial of per capita payments by the Tribal Council shall be made in the event of failure of the legal guardian to demonstrate to the satisfaction of the Tribal Council that criteria (a) – (b) have been met.
4. The Tribal Council or its appointed agent may also require that the petitioning guardian submit receipts of expenditures made from funds disbursed hereunder before any future disbursements are made. The establishment of a regular monthly allowance for any individual declared legally incompetent from the proceeds of any per capita payment placed into trust under this section shall remain at the discretion of the Tribal Council.

C. Minor's Trust Fund

1. In order to provide for the health, safety and welfare of the children of the Tribe, the Tribal Council shall establish a Minor's Trust Fund with associated individual accounts for the deposits for per capita payments for minor eligible tribal members. The Tribal Council shall appoint or otherwise arrange for a trustee of the accounts who shall maintain and administer such accounts and invest the proceeds of such accounts in conformance with the "Prudent Investor Rule."
2. The Tribal Council on behalf and for the benefit of each eligible minor tribal member shall deposit payments into the respective trust accounts. The Tribal Council shall provide account balance statements to the participant, parents, and legal guardians of each eligible minor at least once each calendar year.
3. The accumulated individual trust fund account balance for each eligible minor tribal member, including interest, earnings, and dividends, shall be paid to such member upon (i) the age of 18 and graduation from high school or award of an equivalent G.E.D. certificate, or (ii) the age of 21 whichever occurs first.
4. Disbursements from the minor trust fund accounts shall be made to the parents or legal guardian of such minors in such amounts as may be

necessary for the health, education, or welfare of the minor. The Tribal Council or its appointed agent shall have the authority to disburse proceeds of any funds placed into the Minors' Trust Fund on behalf of a minor qualified tribal member in extenuating circumstances, on a case by case basis, and upon demonstration to the satisfaction of the Tribal Council based upon the following criteria:

- (a) Any requests for such disbursements shall be made in writing to the Tribal Council,
 - (b) That the personal health, safety, welfare or educational needs of the minor could be drastically impaired or affected in the absence of such payments,
 - (c) That any and all alternative funding resources have been exhausted, and,
 - (d) Provision of documentation from qualified medical personnel or education institutions establishing that a dire health, safety, welfare or educational need exists.
5. Denial of per capita payments by the Tribal Council shall be made in the event of failure of the parents or legal guardians to demonstrate to the satisfaction of the Tribal Council that criteria (a) – (d) have been met.
 6. The Tribal Council or its appointed agent may also require that petitioners submit written receipts of expenditures made from funds disbursed hereunder before any future disbursements are made.

D. Election to Opt Out of Plan

1. Any adult Tribal member who is eligible under this plan to receive a per capita payment may elect to opt out of the plan by providing written notice of such election to the Tribe at any time. Upon receipt of such written notice, the Tribe shall withhold all future payments that would otherwise have been made to such eligible member. Upon making an election to opt out of the Plan, the member shall be deemed to have waived any rights, vested or otherwise, in the Plan or in any payments made under the Plan and shall have no claim or right of action for any benefits under the Plan, nor shall such member have any claim or right to any deferred or accrued benefits or other interest under this Plan.
2. Any eligible member who elects to opt out of the Plan as set forth in this section and who subsequently desires to opt back into the Plan may do so by providing written notice to the Tribe. Such notice to opt in shall become effective upon the next scheduled per capita payment so long as the notice is received prior to the Tribal Council's approval of the eligible members list

pursuant to section VII (A)(2). A member may elect to opt out of the Plan at any time; however, no more than one election to opt in or to opt out of the Plan may be made by a member within any 24-month period.

3. All payments that would have been made to eligible members of the Tribe who have elected to opt out of the Plan shall be reallocated to the purposes and uses established under section VI-General Welfare of the Tribe and its Members. The Tribal Council may, in its discretion, establish a financial assistance program with such funds to provide for financial and welfare assistance to members of the Tribe who meet such eligibility requirements established by the Council. Payments made under such program may take into consideration whether or not the members elected to opt out of the per capita plan. However, in no event shall a person be entitled to claim or receive any particular assistance, benefit, or payment because of such person's decision to opt out of the Plan.

Any person who becomes a member of the Tribe after the date the Tribal Council approves the list of eligible tribal members under section VII(A)(2), shall not receive that per capita payment.

E. Federal Indian Tax

Under the Indian Gaming Regulatory Act, federal income taxes must be paid on per capita payments received under this Plan. The Tribal Council or its appointed agent shall ensure that notification of the application of federal tax laws to per capita payments are made. The Tribal Council or its appointed agent shall also implement a procedure by which eligible tribal members who receive per capita payments shall have applicable taxes deducted as directed by the Chief Financial Officer from per capita payments in accordance with U.S.C. Title 26, Subtitle C, Chapter 24, §3402(r). The Tribal Council or its appointed agent shall include in the notice of the application of federal tax laws, a notice of the existence of the withholding procedure. The notifications required herein shall be required for all distributions provided for in this section. Tribal members will receive a 1099 form by January 31 of the year following distribution. Filings of the 1099 will be made with the Internal Revenue Service by February 28th.

F. Death of an Eligible Tribal Member

If any tribal member who is otherwise qualified to receive a per capita payment under this Plan dies after the Tribal Council approves a per capita payment, but before disbursements of such payment, payment

shall be made to such person's estate. No further per capita payments shall be made to the person or the person's estate.

G. Payments to Members Whose Address is Unknown

Whenever it is determined that the Tribe does not have an eligible tribal member's current address, the Tribe will retain that person's per capita share. The Tribe shall publish a notice in the tribal newsletter at least three times during such one-year period notifying such members that the Tribe is holding funds in the name of the Tribal member and that if the tribal member does not claim such funds within the specified one-year period the funds will be returned to the per capita fund.

Section VIII. Remaining Net Revenue

Any per capita amounts not distributed shall be returned to the per capita fund.

Section IX. Severability

If any section, or part thereof, of this plan or the application thereof to any party, person, or entity or in any circumstances, shall be held invalid for any reason whatsoever by the Department of the Interior, the remainder of the Section, part of the Plan, shall not be affected thereby and shall remain in full force and effect as though no section, or part thereof, has been declared to be invalid.

Section X. No Waiver of Sovereign Immunity

Nothing in this plan shall provide or be interpreted to provide a waiver of the sovereign immunity from suit of the Tribe or that of its governmental officers, agents, employees or enterprises.

Section XI. Amendment or Repeal of Plan

This plan, and any Section, part, and word thereof, may be amended or repealed by a majority vote of the General Council by referendum vote. Authorization is given to the Tribal Council to make any technical changes or amendments necessary to achieve the approval of this plan by the Secretary of the Interior or his designee in the Bureau of Indian Affairs.

Section XII. Automatic Re-adoption if no Plan for Subsequent Fiscal Year

If no Gaming Net Revenue Allocation Plan is prepared for any subsequent fiscal year, this plan shall automatically be adopted without any further action to govern the allocation of net gaming revenues for the subsequent fiscal year. For purposes of this Plan, the fiscal year shall be January 1 through December 31.

Section XIII. Distribution Payments

Nothing in this Plan or any ordinance, resolution, or tribal code enacted by the Tribal Council pursuant to this Plan or in aid of this Plan shall be construed as to vest in any person any individualized property right or interest, present, future or otherwise, in any Tribal Gaming revenues. All Tribal gaming revenues are deemed to be property of the Tribe and shall be held by the Tribe and administered by the Tribal Council on behalf of all members of the Tribe unless and until there is an individualized disbursement made pursuant to this Plan. The General Council reserves the right to amend, repeal, or otherwise modify this Plan or any ordinance, resolution, or Tribal code relating to this Plan at any time in its discretion.

Section XIV. Dispute Resolution

In the event that an individual member or an identified group of members raises an issue arising from the allocation of net gaming revenue and the distribution of per capita payments (including any issue arising under Section VII of the Bishop Paiute Tribe Gaming Net Revenue Allocation Plan), to insure that the forum utilized to handle any disputes be neutral and unbiased, such disputes shall be resolved by The Tribal Council with a minimum of four Council Members present, with the chairman voting, and their decisions shall be binding upon all parties involved.

Section XV. Effective Date

This Plan becomes effective upon adoption by the Bishop General Council and approval by the Secretary of the Interior or his or her delegate.