

## SUMMARY OF THE PROPOSED TULALIP COMPACT AMENDMENT

The State and Tribe have reached a tentative agreement on an amendment to the Tulalip Compact. These modifications modernize certain administrative processes of the Compact, as follows:

1. **Financing:** The Compact requires that third parties who finance tribal gaming operations must be tribally licensed and State certified, with the exception of U.S. agencies, FDIC members, and institutions regulated by the Comptroller of the Currency.

The amendment clarifies which regulated lending institutions are exempt from State certification. (Pages 1 – 3) This exemption applies to:

- The Tribe
- The United States
- Any financing extended or guaranteed by a United States agency or instrumentality
- A Regulated Lending Institution, defined as “any state or federally regulated organization or entity substantially engaged in the business of lending money or providing credit for commercial purposes.” (This provision is similar to the definition set out in WAC 230-03-312.)

2. **Gaming Operation & Facility Licensing:** The required tribal license for the gaming operation and facilities shall be issued every third year, instead of annually. (Page 4) This change conforms with federal regulations that require a license every third year.

3. **Conditional Certification:** The Compact does not currently have a process to conditionally certify enrolled tribal members who do not meet certain qualifications for certification. Most of the other Tribal-State Class III gaming compacts include a provision for conditional certification.

The amendment would allow enrolled tribal members who do not otherwise qualify for certification to be conditionally certified to work as Class III gaming employees under certain limited circumstances. (Pages 4 – 5) Under the amendment:

- The Tribe must provide extenuating circumstances to justify the conditional certification, such as completion of a substance abuse treatment program.

- The conditional certification allows the employee to work only for the Tribe where he or she is a member; transfers to other employers are not allowed.
  - The employee must sign an agreement to comply with certain conditions, such as not consuming alcohol and paying court-imposed fines.
4. **Access to Records:** The Compact requires the State to return gaming operation records removed from the premises, unless the Compact otherwise permits the State to retain them.

The amendment clarifies that the State is to return records removed from the premises, as well as any other records provided to the State. The records shall be returned when the State no longer has any legal mandate or “bonafide use or reason” to keep them. Additionally, the amendment specifically includes electronic and other types of records in this section. (Pages 5 – 6)

5. **Dispute Resolution:** This section has been re-written to add more detail about the dispute resolution process and to clarify that it applies to all Compact disputes. (Pages 6 – 15) It also includes the following modifications:
- A new option for formal mediation.
  - The arbitration option allows the parties select an arbitrator, and clarifies provisions about the arbitrator’s decision.
  - The parties may initiate an action in federal court only after informal mediation (required) and formal mediation or arbitration, if agreed upon. (The Compact provides for judicial resolution, but does not require the parties to first participate in any other type of dispute resolution.)
  - Clarification that the limited waivers of sovereign immunity are included for all phases of formal dispute resolution.
  - The Compact has sanctions for suspension, which are based on 20 hours per day facility operations. This section has been updated to reflect 24-hour operations.
  - Any fines issued under this section shall be paid to the Evergreen Council on Problem Gambling (which is currently listed in the Compact under its former name, the Washington State Council on Problem Gambling).
6. **Change of State Law:** The Compact allows the State to bring an action against the Tribe if gaming laws are repealed and the State believes continued gaming would violate the Compact. The amendment requires the State to provide the Tribe with 21 day’s notice of its intent to bring an action and gives the Tribe an opportunity to meet and confer about the issue. (Pages 15 – 16)
7. **Notices:** Notices shall be sent to the addresses set out in the Compact, unless another address is provided. (Page 16)