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## FISCAL IMPACT REPORT

ORIGINAL DATE 3/9/07

SPONSOR     Martinez     LAST UPDATED                      HB                     

SHORT TITLE     Gaming Compact Amendment Approval     SB     SJR 21    

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ANALYST     Schardin    

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	\$4,234.3	\$8,913.3	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to SB1134, HB 1298

### SOURCES OF INFORMATION

LFC Files

Responses Received From  
 Attorney General's Office (AGO)  
 Tourism Department

No Response Received From  
 Gaming Control Board (GCB)  
 State Racing Commission (SRC)

### SUMMARY

#### Synopsis of Joint Resolution

Passage of Senate Joint Resolution 21 will allow adoption of the tribal gaming compact amendments negotiated between 10 tribes and the governor. Tribes that have agreed to the proposed amendments are the Pueblos of Isleta, Laguna, Sandia, Santa Ana, Santa Clara, San Felipe, Taos, and Tesuque, and the Jicarilla Apache Nation and Ohkay Owingeh. Not agreeing to the proposed amendments are the Pueblos of Acoma and Pojoaque and the Mescalero Apache Nation.

Amendments to the 2001 gaming compacts, to which all 13 of the state's gaming tribes have agreed, are as follows:

- The revenue sharing rate paid by tribes will increase. All tribes except Jicarilla are expected to distribute more revenue to the state general fund. General fund revenue is

expected to increase by about \$9 million per year once all 10 tribes sign the proposed amendments (see Fiscal Implications).

- The term of the compacts will be extended by 22 years from the end of FY15 to the end of FY37.
- Each tribe will be limited to having two casinos, with an exception for Laguna Pueblo, which already operates three casinos. Laguna Pueblo will be prohibited from expanding the operations of the Route 66 Casino Express beyond the level of operations on December 1, 2006.
- Tribes will be required to afford tribal gaming establishment employees due process of law and an appeals process in the event that an employee receives an adverse insurance determination. Tribes will also be allowed to elect to participate in the State's benefit system, a change that may benefit state employees by increasing the size of the pool.
- The amount each tribe is required to pay the state each year for the costs of administering the compacts will increase. The 2001 compact requires each tribe to pay the state \$100 thousand per year, plus an additional 3 percent adjustment each year for inflation. The proposed amendment will require each tribe to pay the state \$116 thousand per year, plus an additional 5 percent inflation adjustment.
- Tribal representatives will be required to meet annually with representatives of the Governor, the State House of Representatives and the State Senate to discuss compact issues.
- Non-tribal racetrack casinos will be prohibited from increasing operating hours or the maximum number of slot machines. If the state permits racetrack casinos to have longer operating hours or more machines, the tribal revenue sharing agreement will become ineffective. Currently, racetrack casinos are allowed to operate up to 18 hours per day and up to 112 hours per week. Non-tribal casinos are currently allowed to operate 600 slot machines or up to 750 slot machines if they lease machines from other racetrack casinos.
- The total number of racetrack casinos will be limited to six; five racetrack casinos are currently licensed in New Mexico (Albuquerque Downs, Ruidoso Downs, Sunray Park, Sunland Park, and Zia Park). Prior to granting the approval of an application to a sixth racetrack or an application of one of the existing racetrack casinos to change its location, the State Racing Commission will be required to solicit and consider tribal views on the racetrack casino application.

Joint resolutions become effective immediately upon passage of both houses of the legislature. Senate Joint Resolution 21 will require passage by the Senate Committee of the Whole and then the House Committee of the Whole to become effective.

## **FISCAL IMPLICATIONS**

In exchange for the exclusive operation of Class III gaming (table games) by tribal casinos, the tribal gaming compacts require tribes to pay a percentage of their net win to the state. Tribal revenue sharing payments are deposited into the general fund.

Currently, tribes with annual net win less than \$12 million pay 3 percent on the first \$4 million and 8 percent on the remainder. Tribes with annual net win over \$12 million pay 8 percent.

<b>Current Tribal Revenue Sharing Arrangement</b>	
<b>Annual Net Win</b>	<b>FY08-FY15</b>
<b>Under \$12 million</b>	3% of first \$4 million, 8% on the rest
<b>Over \$12 million</b>	8.00%

All tribes that sign the proposed amendments will pay a higher revenue sharing rate. The revenue sharing rate will continue to increase over time, as detailed in the table below. From FY08 to FY15, tribes with net win under \$15 million will pay 3 percent on the first \$5 million and 9.25 percent on the rest. Tribes with annual net win between \$15 and \$50 million will pay 9.25 percent. Tribes with annual net win over \$50 million will pay 9.75 percent.

<b>Proposed Tribal Revenue Sharing Arrangement</b>			
<b>Annual Net Win</b>	<b>FY08-FY15</b>	<b>FY16-FY30</b>	<b>FY31-FY37</b>
<b>Under \$15 million</b>	3% of first \$5 million, 9.25% on the rest	3% of first \$5 million, 9.50% on the rest	3% of first \$5 million, 10.25% on the rest
<b>\$15 - \$50 million</b>	9.25%	9.50%	10.25%
<b>Over \$50 million</b>	9.75%	10.00%	10.75%

The timing of the fiscal impact created by the proposed compact amendments depends on how long tribes wait after legislative approval of the compact amendments to sign. If House Bill 1298 or Senate Bill 1134 is enacted, tribes will have an eight month limit to sign the amendments. However, if one of those bills does not pass, tribes will have an indefinite amount of time to sign. Some tribes will wait to sign the amendments because signing will increase their revenue sharing payments. However, other tribes will sign the amendments quickly to obtain more favorable financing for long-term projects or reduced insurance costs.

Although the timing of the fiscal impacts is uncertain, the table below illustrates the additional revenue the state will receive from each tribe under the proposed compact amendments. It is assumed that the fiscal impact of the amendments will affect half of FY08, though this assumption is uncertain as it depends on when each tribe signs the amendments.

No revenue impact is included for Acoma, Mescalero and Pojoaque since those tribes have not agreed to the proposed amendments. The fiscal impact would rise to about \$5.3 million in FY08 if the tribes of Acoma, Mescalero and Pojoaque decided to sign the amendments in the future.

**Estimated General Fund Revenue Impact of Proposed Compact  
Amendments (\$ in thousands)**

	<b>FY2008</b>	<b>FY2009</b>	<b>FY2010</b>	<b>FY2011</b>
<b>Acoma</b>	0.0	0.0	0.0	0.0
<b>Isleta</b>	909.5	1,910.0	2,005.5	2,105.8
<b>Jicarilla</b>	(103.8)	(202.4)	(196.9)	(191.1)
<b>Laguna</b>	814.4	1,710.3	1,795.8	1,885.6
<b>Mescalero</b>	0.0	0.0	0.0	0.0
<b>Pojoaque</b>	0.0	0.0	0.0	0.0
<b>Sandia</b>	1,406.1	2,952.7	3,100.4	3,255.4
<b>San Felipe</b>	151.5	318.2	334.1	350.8
<b>San Juan</b>	185.1	388.7	408.2	428.6
<b>Santa Ana</b>	530.2	1,113.3	1,169.0	1,227.4
<b>Santa Clara</b>	128.5	269.9	283.4	297.5
<b>Taos</b>	3.5	12.9	19.1	25.7
<b>Tesuque</b>	209.3	439.6	461.6	484.7
<b>TOTAL</b>	<b>4,234.3</b>	<b>8,913.3</b>	<b>9,380.2</b>	<b>9,870.4</b>

Source: LFC Files

**SIGNIFICANT ISSUES**

Tribal representatives report that extending the term of the tribal gaming compacts from FY15 to FY37 will allow tribes to enter more favorable long-term financing arrangements.

AGO reports that the proposed compact amendments comply with the federal Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) as well as New Mexico statute.

**ADMINISTRATIVE IMPLICATIONS**

The State Racing Commission will be required to adopt, put into effect and comply with regulations requiring the commission to consider tribal views on applications of non-tribal racetrack casinos to become licensed or to move operations to a new location.

**RELATIONSHIP**

Senate Joint Resolution 21 relates to Senate Bill 1134 and House Bill 1298. These bills amend the Compact Negotiation Act to limit the negotiation period that will apply to compact amendments considered during the 2007 regular legislative session. If Senate Joint Resolution 21 is passed by the legislature, these bills will require tribes to sign the compact amendment within eight months of legislative passage. A tribe that does not request an amendment identical to one approved in Senate Joint Resolution 21 within eight months will be required to seek legislative approval at a later date to receive the amendments.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Tribes will continue to pay the current revenue sharing rates, will not benefit from long-term financing opportunities made available by the longer compact term, and compacts will expire at

**Senate Joint Resolution 21 – Page 5**

the end of FY15. Non-tribal racetrack casinos will have the same operating hours and slot machine limits but may seek in the future to amend statute to increase operating hours or the maximum number of slot machines.

SS/csd