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FISCAL IMPACT REPORT

SPONSOR Komadina DATE TYPED 02/09/04 HB _____

SHORT TITLE Create Compulsive Gambling Treatment Fund SB 251/aSJC

ANALYST Gilbert

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
	See Narrative			Recurring	Compulsive Gambling Treatment Fund

(Parenthesis () Indicate Expenditure Decreases)

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY04	FY05			
	Indeterminate		Recurring	Compulsive Gambler Fee Suspense Fund
	Indeterminate	Increases annually based upon Compulsive Gambler Fee Suspense Fund balance	Recurring	Compulsive Gambler Fee Suspense Fund
	Indeterminate	Increases annually based upon Compulsive Gambler Fee Suspense Fund balance	Recurring	Compulsive Gambling Treatment Fund
	(See Narrative)		Recurring	Lottery Tuition Fund
	See Narrative		Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

Relates to SJM 27

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Health (DOH)

New Mexico Gaming Control Board (NMGCB)

Attorney General's Office (AGO)

New Mexico Lottery Authority (NMLA)

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment to Senate Bill 251 deletes the entire section one (*Disposition of Revenue*) from §6-24-24 NMSA 1978 (being Laws 1995, Chapter 155, Section 24).

The deleted section currently calls for the New Mexico Lottery Authority (NMLA) to return at least 50% of gross lottery ticket sales to the public in the form of lottery prizes, to deposit net lottery revenue in the lottery tuition fund, and to use an amount up to 2% of gross revenue for promotional programs.

Language in SB 251 that would have required the NMLA to contribute $\frac{1}{4}$ of one-percent of gross ticket sales for deposit to a compulsive gambler fee suspense fund was also deleted, thus removing the NMLA from participation in this program.

The SJC amendment to SB 251 also mandates the Department of Health (DOH) to ensure that compulsive gambling treatment programs are available in all geographic regions of the state.

A new sub-section F is added to the original bill on page 8, between lines 8 and 9, that mandates the DOH to reimburse a gaming operator licensee, an Indian nation, tribe or pueblo for all reasonable costs associated with their provision of compulsive gambling education, prevention and treatment programs that they may have provided, assuming that such organizations have paid into the compulsive gambling treatment fund per the provisions outlined in this bill. The DOH is also charged with setting standards such treatment programs.

It is important to clarify whether this amendment (see new sub-section F above) violates the state procurement code §13-1-28 through §13-1-199 NMSA 1978, and the anti-donation clause of the New Mexico Constitution. Before the DOH could reimburse funds to Indian nations, tribes, and pueblos or to licensed gaming operators, provisions of the procurement code must be met, RFPs, contracts, etc.

SUMMARY

Synopsis of Original Bill

Senate Bill 251 imposes a compulsive gambler's fee of one-fourth percent on the New Mexico Lottery Authority's (NMLA) gross annual revenues. It also creates a compulsive gambler fee on gaming operator licensees in the amount of one-fourth percent of the net take from gaming machines. Such fees shall be remitted to the State Treasurer for deposit into a new compulsive gambler fee suspense fund.

Beginning in September of 2004, and each month thereafter, one-third of the net receipts of the compulsive gambler fee suspense fund shall be transferred to the compulsive gambling treatment fund. The compulsive gambler treatment fund is administered by the Department of Health (DOH) to provide compulsive gambling education, prevention and treatment services within New Mexico.

DOH administration costs shall not exceed \$125 thousand or 7% of the compulsive gambling treatment fund, whichever is less.

SB 251 does not mandate Native American operated casinos to remit one-fourth percent of their net take from gaming machines to the compulsive gambler fee suspense fund. This bill uses the permissive “may” when discussing the tribal-state compacts, thus submission of such fees would be voluntary.

Significant Issues

Licensed racetrack gaming operators, the NMLA, and Indian nations, tribes or pueblos who entered into the 2001 tribal-state class III gaming compact, currently distribute funds directly to treatment and assistance for compulsive gamblers at their discretion. However, according to the DOH, these funds have often been spent for conferences, trainings and small counseling projects. This bill attempts to create a more systematic treatment plan with quantifiable health performance outcomes.

The DOH states that gambling addiction is frequently referred to as the “hidden addiction. Significant gambling opportunities exist in all parts of the state. The incidence of problem and pathological gambling is difficult to accurately determine, but is estimated at approximately 4%. However, proximity and access play a major role in increasing the prevalence to as high as 8% of the general population.

White-collar crime (embezzlement, credit card fraud, etc.) is frequently the result of out-of-control gambling. Violence can sometimes follow when bad debts become publicly known by family members and the community. Two high profile crimes committed in New Mexico in 2003 were in part attributed to the offender having large gambling debts. Gambling addiction is also frequently accompanied by various drug dependency problems.

FISCAL IMPLICATIONS

One-fourth percent (.0025) of the gross annual revenues from lottery ticket sales and one-fourth percent (.0025) of net take from gaming machines from gaming operators shall be remitted monthly to the state treasurer’s office for deposit to the proposed compulsive gambling fee suspense fund (CGFSF). Subsequently, one-third (.333) of the CGFSF net receipts is transferred monthly to the proposed compulsive gambling treatment fund (CGTF). Funds remaining in the proposed CGFSF accrue earnings which are deposited to the general fund.

For example, every \$100 million dollars of relevant gross annual gaming revenue would generate \$250 thousand for the CGFSF, of which 33% would then be transferred to the CGTF.

Fiscal year 2003 lottery gross revenue was approximately \$137 million. This would generate approximately \$342 thousand for the CGFSF, of which 33% or \$113 thousand would be transferred to the CGTF to be administered by the DOH. (*see Technical Issues*)

SB 251 creates a continuing appropriation to the DOH from the CGTF for compulsive gambling education, prevention or treatment programs, and allows seven percent, but no more than \$125 thousand, of this fund may be used to administer such programs.

This bill also reduces the percent of lottery gross revenue that shall be set aside as a reserve fund to cover bonuses, incentive plans, special promotions, etc by one-fourth percent. Currently two

percent is set aside for this purpose and any balance in excess of \$50 thousand is annually transferred to the lottery tuition fund. As a result, the NMLA believes that this would result in a small funding decrease to the lottery tuition fund.

ADMINISTRATIVE IMPLICATIONS

SB 251 appropriates seven percent of the CGTF up to a maximum of \$125,000 for DOH administration expenditures. According to the DOH, this amount would be adequate to administrate this centralized compulsive gambler treatment program. The DOH must adopt rules to implement the purposes of the compulsive gambling treatment fund and administer the distribution of money in the fund.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SJM 27 requests that the Governor renegotiate the Indian Gaming Compacts to remit compulsive gambler program funds to the DOH for distribution to appropriate treatment providers or clinicians.

TECHNICAL ISSUES

To clarify that the CGTF only receives 33% of total CGFSF deposits, the language on page 7, line 3 should be amended as follows:

*C. Beginning in September 2004 and in each subsequent month, the state treasurer on the twenty-fifth day shall distribute one-third of the net **monthly** receipts of the compulsive gambler fee suspense fund to the compulsive gambling treatment fund."*

According to the Attorney General's Office, pursuant to NMSA 1978 Section 12-2A-10(A), any later-enacted statute amending the same statutory sections in this bill would govern over the provisions contained herein. See State v. Smith, Ct.App. No.s 24,253, 24,254 and 24,258 (filed 1/12/04), pet. for cert. pending.

OTHER SUBSTANTIVE ISSUES

According to the DOH, gambling is expanding and increasing in New Mexico. In 1996 lottery revenue was \$28.5 Million. Today it is \$137 Million. In 2005, there will be five racetracks with a possible combined capacity for over 3000 slot machines. Currently, there are eleven Native American casinos. The expansion places more citizens at risk of developing serious gambling problems.

POSSIBLE QUESTIONS

If the intent of the CGFSF is to generate revenue for the general fund, it seems appropriate for the State Investment Council to invest such funds for higher returns, as apposed the short-term investment strategy employed by the State Treasurer.

RLG/yr