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FISCAL IMPACT REPORT

ORIGINAL DATE 02/06/19

SPONSOR Woods LAST UPDATED 02/08/19 HB _____

SHORT TITLE NMFA Funds & Tribal Gaming Revenue Sharing SB 457

ANALYST Iglesias

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21	FY22	FY23		
No Fiscal Impact						General Fund

Parenthesis () indicate revenue decreases

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Finance Authority (NMFA)
 Gaming Control Board (GCB)
 Indian Affairs Department (IAD)

SUMMARY

Synopsis of Bill

Senate Bill 457 amends Section 6-21-23 of the New Mexico Finance Authority Act (“Act”) by limiting the prohibition of lending money, issuing bonds, or making grants for the promotion of gaming or gaming infrastructure if there is an effect on the revenue sharing obligation of any Indian nation, tribe or pueblo pursuant to an Indian gaming compact between the state of New Mexico and the Indian nation, tribe or pueblo. The effective date of this bill is July 1, 2019.

SIGNIFICANT ISSUES

Under current law, Section 6-21-23 of the Act prohibits all lending by the NMFA for gaming purposes (as defined more particularly in the statute). This bill would permit lending for that purpose, provided that the pledge of funds for repayment does not “affect” revenue sharing under the compact with the particular tribe. This would expand the NMFA’s lending authority.

NMFA provides the following additional discussion regarding this bill:

US Code Section 7871 prohibits tax-exempt debt to be issued to finance gaming-related activities and infrastructure.

It is not clear what revenues other than gaming enterprise revenues could be pledged to repayment of the debt.

“Promotion” of gaming isn’t a capital-type project, and therefore unlikely to be funded with tax-exempt debt.

The term “affects” is vague, maybe impermissibly so, and may be subject to legal challenge.

It is the NMFA’s understanding that the state’s share of gaming revenue is fixed under the compacts, and is based on the amount of net revenues – which would disregard therefore any pledge of the revenues pledged to debt service (e.g., no matter what the tribe may have pledged to debt service, it’s the whole amount of net revenues as defined in the compacts which serves as the basis for calculating the amount of revenue going to the state).

This bill would open the NMFA to compete with private lenders to lend to tribes to finance gaming activities, except private lenders can accept a pledge of gaming revenues whereas the NMFA could not, under the language of this amendment, especially given that “affect” is so vague. A pledge of gaming revenues that does not reduce the amount of revenue received by the State under a compact could be held to affect the revenues in some manner.

DI/sb