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FISCAL IMPACT REPORT

SPONSOR: Campos DATE TYPED: 03/02/01 HB _____
 SHORT TITLE: Gaming Activities at Racetracks SB 797/aSPAC
 ANALYST: Williams

REVENUE (see text)

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY01	FY02			
	Gain	Gain	Recurring	General Fund
	Gain		Non-Recurring	General Fund
	Gain	Gain	Recurring	Horseman's Purses

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files
 Gaming Control Board
 Racing Commission
 Office of Attorney General

No Response
 Taxation and Revenue Department (TRD)
 Department of Finance and Administration (DFA)

SUMMARY

Synopsis of SPAC Amendments

The Senate Public Affairs Committee amendments:

- change the live race requirements back to current law
- authorizes racetrack gaming operators to have up to 1,000 licensed gaming machines
- if allocation agreements change the gaming machine distribution, then no racetrack may operate more than 1,500 machines
- a replacement effective date indicates the act would become effective when the currently proposed tribal gaming compact is effective.

Synopsis of Original Bill

The bill would expand the authority of the racetrack casinos to conduct all forms of gaming, and changes the minimum live races requirement to thirty-six live races in each calendar week, from the current four live race days a week with at least nine live races on each race day. Each racetrack casino is allocated 500 gaming machines, up from the current 300. The bill authorizes allocation agreements between racetracks in which a racetrack may allocate all or a portion of its 500 machines to other racetrack gaming operators. The State Racing Commission must approve allocation agreements. No racetrack may operate more than 1,200 gaming machines. Further, the bill expands the number of hours per day the racetrack casinos may offer gaming to 16 from the current 12 hours. The effective date of the bill is July 1, 2001.

Significant Issues

The State Racing Commission has reported the statewide average daily revenue per gaming machine is \$185, while the Gaming Control Board reports the statewide average net win for machines located at racetrack casinos was \$193 per machine per day in FY00. There is substantial variation in net win among the facilities, and the State Racing Commission indicates Sunland is “the most prosperous racetrack casino with a daily average per machine in excess of \$350.”

The Gaming Control Board notes the table games implied by the bill could constitute Class III games under the federal Indian Gaming Regulatory Act. If enacted, allowing those games may terminate tribal obligations to make revenue sharing payments to the state under the current tribal-state compacts and could weaken the state’s ability to negotiate revenue sharing payments in the future.

The legislation does not authorize imposition of state taxes or funding for horseman’s purses on table games.

Before new racetracks could offer new table games and allocate machines, the GCB would need to develop new regulations, a process which would require about 3/4 of a year.

FISCAL IMPLICATIONS

The expansion of gaming at racetracks would increase general fund and horseman’s purse revenues. There is uncertainty on the magnitude of the extent to which revenues would increase, but the following summarizes the LFC analysis.

Allocation of rights to gaming machines between race tracks will depend on several factors, including current profitability of the racetrack casino as well as future expectations of market conditions and potential trade-offs between revenue from additional machines versus revenue from selling machine rights. The value of the market for machine rights would be a function of the dynamics of the underlying New Mexico gaming market.

Currently, there are 1,200 machines at racetracks in the state: Sunland Park, Ruidoso, Albuquerque and Farmington. The State Racing Commission has reported the statewide average daily revenue per gaming machine is \$185, while the Gaming Control Board reports the statewide average net win for machines located at racetrack casinos was \$193 per machine per day in FY00. There is substantial variation in net win among the facilities, and the State Racing Commission is “the most prosperous racetrack casino with a daily average per machine in excess of \$350.”

This analysis assumes net win per machine per day for new machines would be less than the current average, but overall revenues from gaming would increase. Machines would not be equally distrib-

uted around the state. Net win from these gaming machines would be subject to a 25% gaming tax and a 20% tax for horseman's purses. This analysis relies on three scenarios in which general fund recurring revenues would be from \$28,800.0 to \$48,600.0 for a full year. In addition, incremental revenue for horseman's purses could range from \$23,040.0 to \$38,870.0, respectively, for a full year.

Finally, the state imposes a 10% tax on new machines. Assuming the machines are purchased new to obtain more exciting games at \$8,000 each, this tax could generate from \$1,120.0 to \$2,240.0 in non-recurring general fund revenue in FY02.

There would be an additional fiscal impact from the increase in hourly operation limitations as well as an increase in parimutuel tax revenue to the general fund over time due to the stimulatory effects for the horse racing industry.

Note that the bill does not authorize imposition of gaming taxes on table games; therefore, this analysis does not include revenue from the table games at the racetrack casinos.

This analyzes assumes an increase in gaming machines only at the racetracks, and not at non-profit clubs (see technical issues).

ADMINISTRATIVE IMPLICATIONS

GCB notes table games typically represent 10% of a casino's revenue, but represent a high percentage of fraud cases, are more difficult to audit because these games create no record of activity and strict internal controls are required to protect casino assets. Additional funding for GCB is projected by the agency at \$294.0 for audit and enforcement. GCB would also seek \$41.5 for a helpline.

The State Racing Commission notes it could absorb the initial administrative costs associated with the bill.

TECHNICAL ISSUES

The title indicates the amendments apply only to racetrack gaming operator licensees; however, the amendment allowing gaming activities applies to both racetrack and nonprofit gaming licensees.

GCB recommends specifying the types of table games to avoid legal challenges and whether licenses should specify the approved games for each licensee.

The bill could be amended to tax the additional gaming activities similar to the taxation of gaming machines; taxes could be assessed against gross revenues or on a "per table" basis.

OTHER SUBSTANTIVE ISSUES

The allocation of machines in essence creates a property right that has value and can be traded. The terms of these agreements are not addressed in the bill. For example, could machines be moved around the state during the year to address peak demand at each location? Would the sale of rights be permanent? Would payment be made in a lump sum amount and/or over time? Would the payments be tied to net win generated by the machines?

State Racing Commission notes there is additional uncertainty on the allocation agreements with regard to horseman's purses. How would the allocation of purse moneys generated from machines

exchanged be accomplished? Would the original track purse get a percentage of the machine's production? What percentage? Are horsemen involved in the negotiation of the allocation agreements?

AW/ar:njw