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## Gaming in New Mexico and Proposed Changes

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### Background

- Statute and compacts between the state and tribes regulate gaming in New Mexico. Currently, there are 24 tribal casinos and five racetrack casinos. Tribal casinos are solely allowed to operate table gaming in addition to slot machines, while only slot machines are allowed at racetrack casinos and at licensed non-profit and fraternal organizations.
- The state collects money from gaming in two key ways: revenue sharing from tribal casinos and taxing revenues from racetrack casinos and other licensed operators.
  - Non-tribal casino revenues are taxed at 26 percent of slot gaming net win and licensed non-profits and fraternal organizations are taxed at 10 percent.
    - Non-profits must use 60 percent of net take on charitable purposes.
  - Tribal revenue sharing is determined by compacts made with the state, the most recent of which (2015) follows the table below:

Annual Adjusted Net Win	July 1, 2015- June 20, 2018	July 1, 2018 – June 30, 2030	July 1, 2030 – June 30, 2037
<\$20 million	2% of the first \$6 million, and 8.50% on the rest	2% of the first \$6 million, and 8.75% on the rest	2% of the first \$6 million, and 9.50% on the rest
\$20-\$40 million	8.50%	8.75%	9.50%
\$40-\$80 million	9.00%	9.50%	10.25%
>\$80 million	9.00%	10.00%	10.75%

- In FY19, revenue from tribal casino revenue sharing was \$78.4 million, and tax revenue from non-tribal operators was \$64.9 million. Of non-tribal tax revenue, 97 percent came from racetrack casinos, and the remaining 3 percent came from non-profit operators, manufacturers, and distributors.
- Currently, alcohol is not allowed while gambling. According to studies from the U.S. Department of Health and Human Services, concurrent drinking and gambling increases negative consequences associated with each behavior, resulting in larger average bets, more rapid loss of available funds, and binge drinking.

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## Pandemic Impacts on Gaming

- Tribal casinos began closing operations in March, before the close of the first quarter. The Gaming Control Board (GCB) has not reported any data on tribal revenue sharing since 2019, stating that tribal reporting and transfers will resume when gaming activity resumes. Currently, casinos have begun reopening and GCB has failed to report on any activity since January.
- With casinos closed since March, gaming revenues into the general fund – including gaming tax and tribal revenue sharing payments – have been near-zero at \$152.5 thousand for the last quarter of FY20, down \$56.4 million, or 99.7 percent, from the same period last year. For FY21, current revenue estimates expect levels to remain near-zero in the first quarter, small growth in the second quarter, and a return to normal in the third and fourth quarters, ending the year around 70 percent of pre-pandemic revenues.
- Sunland Park Racetrack & Casino submitted a letter to the New Mexico Department of Workforce Solutions, in compliance with the federal Worker Adjustment and Retraining Notification Act, announcing plans to lay off 259 employees. Depending on the season, the facility employs between 500 and 600 people. Layoffs are scheduled to begin September 20.

## Proposed Gaming Reform

- A consortium of the racetracks in New Mexico is drafting the “Gaming Recovery Act” which seeks to accomplish a number of gaming reforms, including but not limited to:
  - Allow Las Vegas-style compensation in the form of lodging, food, golf, etc;
  - Allow alcohol to be served while patrons game;
  - Allow nonprofit gaming operators to count repairs and maintenance of the premises as an allowable charitable expense;
  - Remove limits on the number of gaming machines at race track casinos;
  - Eliminate Gaming Control Board monitoring of gaming machines;
  - Reform horse racing awards allowing for statewide bet pooling; and,
  - Allow racetrack casinos to have table games, sports wagering, and online gaming, all at a lower tax rate than current slot gaming.
- The changes sought by the Act would require the state to renegotiate the compacts with the gaming tribes. The consortium of racetracks proposing the bill has proposed eliminating revenue sharing for tribes in exchange for allowing racetrack casinos to operate all gaming types, including the currently exclusive gaming experiences offered by tribes. Despite the elimination of revenue sharing by tribes, the proposal would maintain gambling monopoly of nontribal casinos to 6 racino licenses.
- The draft proposal is likely to lower total state revenues – the gain in taxes from expanded gaming for the five existing racetrack casinos is unlikely to exceed the nearly \$80 million in annual tribal revenue sharing payments. A final version of the bill and input from relevant state agencies is needed to analyze the full impact of the proposed changes.