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## FISCAL IMPACT REPORT

SPONSOR: Cisneros DATE TYPED: 03/05/01 HB \_\_\_\_\_  
 SHORT TITLE: Negotiate New Tribal-State Gaming Compacts SB SJR 2/aSFl#1  
 ANALYST: Dotson

### REVENUE

| Estimated Revenue |      | Subsequent<br>Years Impact | Recurring<br>or Non-Rec | Fund<br>Affected |
|-------------------|------|----------------------------|-------------------------|------------------|
| FY01              | FY02 |                            |                         |                  |
|                   |      | See Narrative              |                         |                  |

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates HJR 7

### SOURCES OF INFORMATION

LFC Files  
 New Mexico Gaming Control Board and the Attorney General

### SUMMARY

#### Synopsis of SFl#1 Amendment

The Senate Floor No. 1 amended SJR 2 by requesting the Governor negotiate with all tribes engaged in gaming rather than negotiate with tribes expressing an interest in gaming.

#### Synopsis of Original Bill

Senate Joint Resolution 2 requests tribes and the governor to enter into negotiations to develop new tribal-state compacts or amend the Indian gaming compacts enacted in 1997. These negotiations would be conducted under the Compact Negotiation Act. The resolution directs that a new tribal-state gaming compact be submitted to the legislative committee on compacts as soon as possible for review and action at the 2002 legislative session.

#### Synopsis of Significant Issues of Senate Floor Amendments

The Senate Floor amendment would focus the negotiations. Discussion would be focused on current issues rather than possible hypothetical ones arising from tribes not currently gaming.

#### Significant Issues of Original Bill

## **Senate Joint Resolution 2/aSFL#1 -- Page 2**

The Joint Resolution is not binding. There could be an issue on the scope of the negotiations because of the litigation between the State and the tribes over back payments. See Substantive Issues below.

### **PERFORMANCE IMPLICATIONS**

According to the Gaming Control Board, a new or amended tribal-state compact could impact the Board's performance measures as a result of new or amended regulatory responsibilities.

### **FISCAL IMPLICATIONS**

Last spring, all tribes ceased making revenue sharing and regulatory fee payments to the state under the 1997 compacts. State consensus revenue estimators are currently forecasting no tribal gaming payments through FY05.

Gaming tribes paid the state a total of \$68 million in revenue sharing and regulatory fees under the 1997 compacts, substantially below state estimates of total liability under compact provisions.

Fiscal considerations of the negotiations would be two-fold:

- 1) Ability to collect back payments due to the state.
- 2) Nature and scope of state receipts from tribes under amended or new compacts.

### **ADMINISTRATIVE IMPLICATIONS**

According to the Gaming Control Board, indeterminable until specifics about a new or amended tribal-state compact are known.

### **OTHER SUBSTANTIVE ISSUES**

Without a new or amended tribal-state compact, the courts could determine the legality of revenue sharing requirements as specified in the existing compacts.

According to the Attorney General, the current litigation will continue if there is no settlement of the dispute over revenue sharing. The Attorney General sued twelve tribes and pueblos for non-payment of the revenue sharing provisions of the 1997 compacts. The Legislature may not enact legislation that forgives debts owed the State. See New Mexico Const., Art. IV, Sec. 24. Therefore, if the negotiations are to address the past payments, the Attorney General must approve any agreements through the settlement of the lawsuit currently pending.

The Gaming Control Board is in arbitration with three tribes and the Attorney General has filed a complaint in U.S. District Court for injunctive relief for non-payment by the tribes.

AW/njw:ar