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FISCAL IMPACT REPORT

ORIGINAL DATE 1/31/07
 SPONSOR Salazar LAST UPDATED 3/12/07 HB 661/aHTRC
 SHORT TITLE Indian Gaming Revenue to Municipalities SB _____
 ANALYST Schardin

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	\$85.8	Recurring	General Fund to City of Española

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 473, SJR 21

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)
 Taxation and Revenue Department (TRD)
 Gaming Control Board (GCB)

SUMMARY

Synopsis of HTRC Amendment

The House Taxation and Revenue Committee amendment to House Bill 661 reduces the size of the municipal tribal revenue sharing payment created in the bill from 20 to 10 percent of net receipts of revenue sharing from the affected tribal gaming facility.

Synopsis of Original Bill

House Bill 661 creates a distribution to each municipality that has an Indian gaming facility located within its municipal boundary in the amount of 20 percent of the net receipts of revenue sharing from the facility submitted to the state pursuant to a gaming compact. Currently, the only Indian gaming facility located entirely within a municipality's boundaries is Santa Clara Pueblo's Big Rock Casino, which is located in the City of Española.

The distribution to the City of Española will be made quarterly beginning in the second quarter of FY08. The distribution will be made by the 15th day of the month following the date in which

tribal revenue sharing payments are due to the state.

The bill prescribes that municipal tribal gaming revenue distribution will be used for acquisition, construction or improvement of municipal government infrastructure or for providing police or fire protection services.

The effective date of these provisions is July 1, 2007.

FISCAL IMPLICATIONS

Tribal revenue sharing payments will be due to the state by the 25th of the month following the end of a calendar quarter (April 25, July 25, October 25, and January 25). Distributions to the City of Espanola will therefore be made each May 15, August 15, November 15, and February 15. The first distribution will be made on November 15, 2008. The bill will impact only two quarters of FY08 (see Technical Issues).

Tribal gaming receipts to the general fund from Santa Clara Pueblo totaled \$1.2 million in FY03, \$1.4 million in FY04, \$1.3 million in FY05, and \$1.5 million in FY06. Assuming revenue sharing payments from Santa Clara grow by 7 percent each year, the appropriation to Española created in the bill will be about \$85.8 thousand in FY08 (half year impact) and \$183.7 thousand in FY09 (full-year impact).

The bill is worded so that tribal revenue sharing payments to the general fund will be unaffected, but a new earmarked appropriation will be made to Española. This mechanism is similar to earmarked appropriations for public schools: revenues continue to be credited to the general fund and appropriations are made automatically. As such, the fiscal impact is only shown in the appropriation table on page 1.

Over time, the fiscal impact of this bill could grow if other municipalities annex Indian gaming facilities to qualify for the distribution.

SIGNIFICANT ISSUES

Counties and municipalities in which Indian gaming facilities are located have often requested distributions from the state's tribal revenue sharing payment in recent years. One rationale for these requests is that tribal casinos cause local governments to incur infrastructure costs in the form of police, fire and ambulance services, as well as utility system maintenance. Unlike most other businesses, which pay a share of gross receipts tax to the local jurisdictions in which they are located, tribal gaming facilities pay only tribal revenue sharing payments.

Another rationale for this type of local gaming distribution is that gaming facilities located close to municipalities reduce local gross receipts tax collections by detracting from spending at non-tribal businesses.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 661 relates to House Bill 473, which distributes 10 percent of tribal revenue sharing payments to each of the 12 counties and one municipality in which a tribal gaming facility is located.

House Bill 661 relates to Senate Joint Resolution 21. Passage of that resolution by both houses of the legislature will approve tribal gaming compact amendments negotiated between the governor and 10 tribes, including Santa Clara Pueblo. By increasing the revenue sharing rate for Santa Clara Pueblo, passage of Senate Joint Resolution 21 would increase the fiscal impact of House Bill 661 slightly to \$88.7 thousand in FY08 and \$199.7 thousand in FY09.

TECHNICAL ISSUES

DFA notes that the bill provides that municipal distributions will begin in the second quarter of FY08. Since the state accounts for revenues on a modified accrual basis, this direction is vague. Cash received by the state from the Pueblo of Santa Clara in July 2007 is accrued to June 2007 and counts as FY07 revenue. DFA is unclear whether the second quarter of FY08 payment requires a distribution based on the July 2007 payment or the October 2007 payment. The fiscal impact calculated in this analysis is based on the second choice: the state's October 2007 cash payment will cause an appropriation to the Pueblo of Santa Clara in November 2007.

To clarify this issue, DFA suggests amending the bill so that instead of distributions “beginning in the second quarter of FY08,” it reads, “beginning with the first payment made to the state that is accrued to FY08,” and inserting the word, “on a cash basis,” after the word, “received” on page 2, line 19.

The bill does not explicitly state who will be responsible for calculating the amount of the appropriation to be made to the affected municipality. Tribal revenue sharing payments are collected by the State Treasurer's Office and overseen by the State Indian Gaming Representative.

SS/nt