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## FISCAL IMPACT REPORT

SPONSOR Brandt/Griggs ORIGINAL DATE 02/09/22  
LAST UPDATED 02/14/22 HB \_\_\_\_\_  
SHORT TITLE Examine the State of Gaming in NM SM 25  
ANALYST Hitzman

### **ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY22	FY23	FY24	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	See Fiscal Implications					

(Parenthesis ( ) Indicate Expenditure Decreases)

### **SOURCES OF INFORMATION**

LFC Files

#### Response Received From

Indian Affairs Department (IAD)

Gaming Control Board (GCB)

### **SUMMARY**

#### Synopsis of Bill

Senate Memorial 25 resolves that the Legislative Finance Committee, the Revenue Stabilization and Tax Policy Committee and the legislative interim committees that deal with courts, corrections and justice and Indian affairs examine the state of gaming in New Mexico. The examination should include details on revenue aspects of gaming, tax consequences to stakeholders should gaming be expanded or changed, and the state of gaming laws that impact liquor licenses. The purpose of the examination is to help shape the future of gaming to be competitive with other states, maximize tourism, and create economic opportunity. The committees shall report their finding to the Legislative Council Service, the Gaming Control Board, the governor and New Mexico's gaming Indian nations, tribes, and pueblos by December 31, 2022.

There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

### **FISCAL IMPLICATIONS**

The bill does not contain an appropriation and does not have a direct fiscal impact on the state. However, developing the reports and undergoing the needed analysis will likely require additional

administrative support by the Legislative Finance Committee and other interim committees required to participate. It is unclear whether the committees could absorb the required costs using existing staff.

Further, if the committees produce findings that can improve the state of gaming, improve competition with other states and create a more sustainable gaming environment, the state should expect to see at least sustained revenues, if not increased revenues, from gaming activities. If the committees produce findings that result in improved efficiencies and economic opportunities, positive impacts may be realized not just in the gaming industry but in related industries as well, such as horseracing. However, impacts of the bill on tribal gaming revenue sharing may result in decreases in revenue, as the Tribal Compacts state that if there is an expansion of gaming in New Mexico, the compacting tribes no longer have to pay revenue sharing.

However, as noted by GCB:

If Revenue Sharing is eliminated in a manner that impacts exclusivity, then this could result in increased tax revenue from private New Mexico gaming. Revenue from non-tribal gaming in the State and online gaming might potentially offset the loss of revenue to the general fund from the loss of tribal revenue share with an increase in gaming tax of private gaming operations. If revenue sharing is eliminated and exclusivity is maintained as is, this could result in significant loss of monies going to the general fund from tribal revenue share without any growth in private gaming operations. There might be no increase in gaming tax from private gaming operations to offset the loss of tribal revenue sharing.

Though gaming revenues decreased in FY21 relative to prior years due to casino closures during the Covid-19 pandemic, the industry still contributed \$24.6 million to the general fund and the state received \$34.2 million in tribal gaming revenue in FY21. Gaming revenues also went toward horseracing purses and combatting problem gambling, with \$18.7 million and \$233.9 thousand, respectively, for these uses.

## **SIGNIFICANT ISSUES**

IAD notes that “the type of expansions set out in SM 25 could significantly impact the revenue sharing between the state and tribes or result in the end of revenue sharing, resulting in significant financial loss to the state” Estimates of how this revenue sharing would change as a result of enactment of SM25, compared to the consequences of not enacting the bill, are difficult to determine but tribal gaming revenue totaled \$32.4 million to the state in FY21. As stated above, any expansion of gaming conflicts with existing Tribal Compacts. Changes to exclusivity directly impacts the conduct of Class III and Class II gaming by both the tribes and private / nonprofit gaming operators in New Mexico. Further, as noted by GCB, expansion of gaming would significantly impact the existing compacts with the Compacting Tribes and could result in protracted disputes over compact language and intent.

However, the examinations and reports provided for in the bill would likely provide additional information on how expansions and changes to the gaming environment would impact revenue sharing opportunities and provide a more detailed view of any other fiscal impacts that may result from changes to gaming in New Mexico.

Further, if passed, the bill would substantially increase the GCB obligation to regulate new or expanded gaming operations in the State, meaning that the Gaming Control Act would have to be amended to permit the expansion. Further, GCB reports a current staff vacancy rate of 38 percent. According to GCB, all current vacancies would have to be filled and every Division in the agency would have to be expanded in order for the agency to fulfill its regulatory responsibilities under the Gaming Control Act if any expansion in gaming occurs.

In regard to Internet gaming, GCB notes that:

In the event that internet gaming is authorized within the State, the State and the Tribe agree that they will reopen good faith negotiations to evaluate the impact, if any, of internet gaming and consider adjustments to the Compact. The parties understand and agree that it is not possible to determine at this time what, if any, adjustments to the Compact would be necessary.

JH/al