

HB288 would allow for the commission to hire or contract for staff to assist the commission's work, using money from the unexpended balance of appropriations to the legislative department of New Mexico. Members would be entitled to compensation pursuant to the Per Diem and Mileage Act.

This bill contains an emergency clause and would become effective immediately on signature by the governor.

FISCAL IMPLICATIONS

HB288 does not specify how many times the commission would meet, but assuming one meeting per month, for a total of up to 10 meetings, and assuming a per diem and mileage reimbursement of \$150 per member, meetings would incur a cost of \$1,500. The bill also provides for the commission to hire or contract for staff. While it is unknown how many staff would be required and the nature of their work, it could be assumed that one contract staffer could be hired for approximately \$50 thousand for the duration of the commission's work.

The bill does not provide an appropriation but provides that the commission could use unexpended balances of the legislative department.

SIGNIFICANT ISSUES

The deadline for the commission to review and produce a report on several complex pieces of legislation and intergovernmental agreements (November 15, 2021) may be relatively short.

GCB notes its ability to respond to the commissions' requests for information would likely be subject to strict confidentiality provisions in the acts under which it operates. GCB also notes questions regarding the legality of sports betting would need to be addressed by the Attorney General, the Department of Justice, and the U.S. Attorney's office.

Any expansion of gaming in New Mexico would likely require renegotiation of the 2015 tribal gaming compacts. All 14 gaming tribes would have to agree to a renegotiation process. The Indian Affairs Department (IAD) notes the following regarding tribal gaming:

The health of tribal gaming requires strong regulatory structures that support tribal sovereignty and tribal innovation. New Mexico gaming tribes are already subject to numerous federal and state oversight. Provided tribes maintain regulatory compliance outlined in the Tribal-State Class III Gaming Compact (2015), further oversight and recommendations proposed in HB288 are not wholly unnecessary and impede on goodwill and cooperation in government-to-government relations.

A review of state and federal laws, such as the [Indian Gaming Regulatory Act (IGRA)] and tribal gaming compacts, which are intended to safeguard tribal sovereignty, open tribes up to highly politicized relationships with state and tribal governments.

ADMINISTRATIVE IMPLICATIONS

HB288 may impose a modest administrative burden on participating agencies related to

preparation for commission meetings, meeting time, and development of commission reports.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 101 would create a new law, the Lottery Education Assistance Act, for the purpose of allowing sports betting and table games at the five licensed racetrack casinos across the state. The bill would distribute tax revenues – assessed against the adjusted gross receipts of 10 percent from sports betting and 15 percent from table game revenues – generated from the gaming activity to a newly created fund, the NM educational assistance fund.

OTHER SUBSTANTIVE ISSUES

New Mexico has 24 tribal casinos and five racetrack casinos. Tribal casinos may operate casino-style gaming, including slot machines and table gaming, while slot machines are allowed at racetrack casinos, as well as at licensed nonprofit and fraternal organizations. A key piece of gaming regulation in New Mexico is based on gaming compacts, or agreements between the state and Indian tribes. The federal IGRA permits Indian tribes to conduct class III gaming on Indian lands, in agreement with tribal-state compacts. The state's current compact dates to 2015 and is in effect through June 30, 2037. All 14 tribes that operate casinos are signatories to the 2015 compact. The compact lays out conditions for revenue sharing, wherein tribal casinos remit a portion of casino revenues from class III games to the state. Generally, mechanical, electromechanical, and electronic games are subject to revenue sharing and table games (those that rely on a casino attendant to play) are not subject to revenue sharing.

Under the current gaming compact, the state only receives a share of revenues from class III gaming machines, and not from class III table games or class II games. While class II games have traditionally included primarily nonelectronic bingo games, technological advances in class II machines have led to more advanced electronic bingo-style machines that can match the performance of class III machines. The state could see lower revenues if class II machines become a larger share of tribal casino offerings. In 2019, GCB reported that class II machines made up less than 2 percent of gaming machines.

While it is illegal to operate a sportsbook in New Mexico (NMSA Section 30-19-15), the tribal gaming compact does not specifically prohibit tribal casinos from operating sportsbooks, which is a type of class III gaming. Some New Mexico tribal casinos have begun operating sportsbooks in recent years.

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