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July 27, 1999

Hon. Bill Lockyer
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Connie Lemus
Initiative Coordinator

Dear Attorney General Lockyer:

Pursuant to Elections Code Section 9005, we have reviewed the proposed initiative entitled "The Tribal Government Gaming and Economic Self-Sufficiency Measure of 2000" (File No. SA1999 RF 0025). The measure amends the California Constitution and California statutes to legalize certain types of gambling on Indian lands in California. As Section 9005 directs, our review addresses the potential effects of the measure on state and local government revenues and costs.

BACKGROUND

Gambling on Indian lands is regulated by the 1988 federal Indian Gaming Regulatory Act (IGRA). The act defines gambling under three classes. Class III gambling, which is the subject of this measure, generally includes banked card games (such as blackjack, pai gow, and baccarat), virtually all video or electronic games, slot machines, parimutuel horse race wagering, and craps. An Indian tribe can only operate Class III games if the tribe and the state have agreed to a tribal-state compact that governs the Class III activities.

According to the federal Bureau of Indian Affairs, there are over 100 Indian rancherias/reservations in California. Currently, there are about 40 Indian gambling operations in California, which offer a variety of gambling activities.

Eleven Indian tribes recently entered into compacts with the state for Class III gambling activities. These compacts, signed during 1998, include the compact between the state and the Pala Tribe and ten compacts based on the "Pala compact." A referendum has been placed on the March 2000 ballot that, if approved by the voters, would repeal these compacts.

Proposition 5. In November 1998, state voters approved the Tribal Government Gaming and Economic Self-Sufficiency Act (Proposition 5). The proposition:

- Amends state law to allow certain Class III gambling activities on Indian land in California (parimutuel horse race wagering, gaming devices, certain card games, and any lottery game).
- Requires the state to enter into a specific compact with those tribes that agree to the compact in the measure and requires the Governor to negotiate a separate compact with any tribe that requests a different compact—provided that the scope of Class III gambling is not expanded.
- Establishes three trust funds to be funded from a portion of the gambling proceeds—the Nongaming Tribal Assistance Fund, the Statewide Trust Fund, and the Local Benefits Grant Fund. The trust fund contributions are required only so long as the tribes have the exclusive right to any gaming devices.
- Provides primarily for tribal regulation of the gambling operation, with some limited state regulation. All reasonable costs associated with state regulation of a tribal gambling operation are to be reimbursed by the tribe.

The proposition, however, has not been implemented because the California Supreme Court has issued a stay pending review of the constitutionality of the proposition.

PROPOSAL

This measure has two major sections. The first section amends the Constitution to permit certain Class III gaming on Indian land. The other section is a restatement of the provisions of Proposition 5 and places these provisions in statute.

Constitutional Amendment

The measure amends Section 19 of Article IV of the California Constitution to permit certain gambling activities on Indian land. Specifically, the amendment permits certain card games, gambling devices (electronic gaming machines), and lottery games. The first two activities would be required to pay prizes solely in accordance with a player's pool prize system, as defined.

Statutory Amendment

As mentioned above, this section of the measure restates the provisions of Proposition 5.

FISCAL EFFECTS

The fiscal impact of this proposal depends on the court ruling on Proposition 5. If Proposition 5 is declared legal by the courts and the stay is lifted, then this measure would have no impact. On the other hand, if Proposition 5 is declared unconstitutional then the impact of this measure could be significant, as outlined below.

State and Local Tax Revenues

The effect the measure would have on state and local tax revenue depends on (1) the extent to which tribal gambling operations expanded as a result of the measure's passage and (2) the degree to which new gambling activity in California came from spending diverted from Nevada and other out-of-state sources (as compared to spending diverted from other California activities).

The measure probably would have a limited net effect on tax revenues in the near term. However, in the longer term, the measure could result in a significant increase in economic activity and tax revenues in California. This would occur if over time there is a *large* diversion of gambling activity from other states to California.

Trust Fund Revenue

State and local governments could potentially receive revenue from the Statewide Trust Fund and the Local Benefits Grant Fund. The amount of revenue received from these two trust funds would depend on the level of gambling activity. Based on available information, revenue to these trust funds could total in the tens of millions of dollars annually.

State Regulatory Costs

The state would incur costs for regulatory activity associated with the measure. These costs would vary depending on the number and size of Indian gambling establishments and would be offset by fees charged to the regulated tribes. Thus, the measure would result in *no net* increased costs to the state.

Other Government Impacts

The measure could result in a number of other state and local fiscal impacts—such as increased local law enforcement costs, savings in welfare assistance payments, and local infrastructure costs. The magnitude of these impacts is unknown.

SUMMARY OF FISCAL EFFECTS

This measure would have no fiscal effect on state and local government unless the state Supreme Court rules Proposition 5 unconstitutional. In this case, this measure would probably have a limited effect on state and local revenues in the near term, with potential longer-term significant annual revenue increases to the extent there is a large diversion of gambling activity from other states to California.

Sincerely,

Elizabeth G. Hill
Legislative Analyst

B. Timothy Gage
Director of Finance