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## DIGEST

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Faucheux

HB No. 12

Proposed law requires all excise taxes of the state to be levied upon the following and under the following circumstances unless they are otherwise exempt:

- (1) On activities occurring off of Indian reservations, or on individuals or entities which carry on such activities.
- (2) On activities occurring upon Indian reservations which are not directly related to gaming activities, or on individuals or entities which carry on such activities, unless the legal incidence of the tax rests either upon the tribe or upon tribal members.
- (3) On activities occurring upon Indian reservations which are directly related to gaming activities, or on individuals or entities which carry on such activities, if all of the following apply:
  - (a) The legal incidence of the tax does not rest either upon the tribe or upon tribal members.
  - (b) The tribe or tribal members contribute relatively little to the activity upon which the tax is levied in that any or all of the following circumstances exist:
    - (i) The activity is carried out largely by nonmembers of the tribe.
    - (ii) The tribe does not have an active roll in the development and marketing of the activity to non-Indians, or in contributing to the quality of the activity or product.
    - (iii) 75% of the funding for the activity comes from nontribal and nonfederal sources.
  - (c) Similar activities occurring off the reservation, and the individuals or entities carrying on such similar activities off the reservation, are at a competitive disadvantage if the activities, individuals, or entities on the reservation are not taxed.

- (d) The state provides substantial governmental services to the individual or entity carrying on the activities, for example, by providing criminal and civil laws and a system to enforce against fraud; by providing laws and a system to secure and facilitate the use of checks and credit cards; by providing laws and a system for liens and security devices governing mortgages; by providing laws and a system governing employment, including workers' compensation; and by providing efficient road or highway access bringing people to the activity.
- (4) Proposed law provides that with regard to individuals or entities which carry on gaming activities occurring upon Indian reservations, compacts entered into pursuant to the Indian Gaming Regulatory Act are required to be renegotiated at the end of their terms, and new compacts are required to be negotiated to provide, to the maximum extent possible compatible with good faith negotiations, a tax equal to 18½% of the net gaming proceeds from gaming activity on Indian reservations shall be levied upon such individuals or entities if all of items listed above for the taxation of activities "directly related to gaming" apply.

The terms "gaming activities", "net gaming proceeds", and other gaming terms used in those definitions are basically the same as those contained in the land-based casino gaming law at R.S. 27:205.

Proposed law requires all compacts except those negotiated under IGRA regarding gaming activities on reservations to be honored until the end of their terms. At that time, the appropriate state official is to give notice that the state intends to terminate the compact. At the end of the required notice period under the contract, the taxes of the state are required to be levied as provided for in proposed law.

(Adds R.S. 47:13)