

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House  
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**FISCAL IMPACT STATEMENT**

**LS 6495**  
**BILL NUMBER: SB 176**

**DATE PREPARED:** Dec 3, 1999  
**BILL AMENDED:**

**SUBJECT:** Moratorium on gaming expansion.

**FISCAL ANALYST:** Brian Tabor  
**PHONE NUMBER:** 233-9456

**FUNDS AFFECTED:**     **GENERAL**  
                          **X DEDICATED**  
                          **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill provides that, until January 1, 2004:

- (1) A form of gambling that is not lawful under an Indiana statute in effect on January 1, 1999, may not become lawful under an Indiana statute;
- (2) a statute in effect in Indiana on January 1, 1999, that allows a form of gambling may not be amended to expand the scope of gambling allowed by the statute;
- (3) a tribal-state compact to allow tribal gaming may not be made between the state and an Indian tribe;
- (4) a meeting permit to conduct pari-mutuel wagering that has not been issued by January 1, 1999, may not be issued;
- (5) a satellite facility license that has not been issued by January 1, 1999, may not be issued;
- (6) and the maximum number of riverboat licenses authorized on January 1, 1999, may not be increased.

The bill also prohibits the State Lottery Commission from conducting lottery games played on the Internet or on an electronic gaming device.

**Effective Date:** January 1, 1999 (retroactive).

**Explanation of State Expenditures:**

**Explanation of State Revenues:** This bill establishes a moratorium on the expansion of gaming in the state of Indiana. While this proposal would not directly impact current revenues, the state and local units would not receive any revenue from any expansion or new form of gaming that would have occurred absent this bill. The effects of this proposal on certain existing forms of gaming are outlined in the following paragraphs:

*Tribal gaming:* This bill provides that a compact between the state and an Indian tribe to allow tribal gambling may not be made before January 1, 2004. The Indian Gaming Regulatory Act (IGRA) allows Indian tribes to conduct any type of class III gaming (which includes pari-mutuel wagering, slot machines, and video poker) in a state that allows such gaming as long as it conforms to the compact negotiated by the state and the Indian tribe. It is not known whether this language will prevent an Indian tribe from operating a casino in the state between 2000 and 2004.

The IGRA provides that an Indian tribe may sue a state for failing to negotiate or failing to negotiate in good faith. However, the United States Supreme Court ruled in the case of Seminole Tribe of Florida v. Florida that the United States Congress does not have the power to subject states to lawsuits by Indian tribes for failing to negotiate a compact. Therefore, the provision of the IGRA that allows tribes to sue states is unenforceable.

The Eleventh Circuit Court of Appeals asserted in its decision in Seminole Tribe of Florida v. Florida that Indian tribes may negotiate with the U.S. Secretary of the Interior for a resolution if negotiations with a state fails. The U.S. Supreme Court did not comment on this assertion. The IGRA does not contain language that authorizes the Secretary of the Interior to negotiate a compact without participation by a state. Therefore, it is not known if a tribe will be able to negotiate a compact with the Secretary of the Interior if the State of Indiana refuses.

In addition, Indian tribes in Florida and Texas operate casinos even though a tribal-state compact has not been negotiated. The states have been unable to shut down the casinos because the land is under federal government jurisdiction.

*Horse racing:* This bill also prohibits the Horse Racing Commission from issuing another horse track permit or satellite facility license before January 1, 2004. It would postpone the issuance of a second track permit and the four satellite facility licenses authorized for that permit until the year 2004. An application has been filed with the Commission for a second track in Lawrence Township, Marion County. This bill would also postpone the issuance of the fourth satellite facility license authorized for Hoosier Park. Hoosier Park has not yet applied for that license.

*Riverboat gaming:* According to current law, up to eleven riverboat licenses may be granted by the Indiana Gaming Commission, and there are currently nine riverboat casinos operating in Indiana. A certificate of suitability has been granted for a riverboat in Switzerland County, and under the provisions of this bill, this riverboat's owner(s) could be granted a license to operate before January 1, 2004 due to the certificate being issued before January 1, 1999. The U.S. Army Corps of Engineers will not authorize a riverboat for Patoka Lake, so the eleventh license is nonfunctional.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:** See Explanation of State Revenues.

**State Agencies Affected:**

**Local Agencies Affected:**

**Information Sources:** 25 U.S.C. 2701 et seq. (Indian Gaming Regulatory Act); Seminole Tribe of Florida v. Florida et al, 116 S. Ct. 1114 (1996); Ellen Perlman, "A Game of Defiance", Governing, November 1998,

pages 50-54.