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FISCAL IMPACT REPORT

SPONSOR:	Hawkins	DATE TYPED:	01/31/00	HB	71
SHORT TITLE:	Revenue Sharing Agreements			SB	
				ANALYST:	Williams

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY00	FY01			
		See Text		

(Parenthesis () Indicate Revenue Decreases)

Duplicates/Conflicts with/Companion to/Relates to HB 19

SOURCES OF INFORMATION

LFC files

State Department of Education (SDE)

Office of Indian Affairs (OIA)

SUMMARY

Synopsis of Bill

Provides that back payments due to the State of New Mexico by Native American casino operations would be payable to the General Fund, but earmarked for educational initiatives recommended by the education initiatives and accountability task force. These back payments would be those due under the 1997 state-tribal compacts from effective dates through February 1, 2000. The bill carries a reversion clause for FY04.

According to the State Department of Education, the following short-term initiatives would be pursued:

- 1) Development of a reading initiative and a long-term plan for sustained reading achievement;
- 2) A review of statutes and rules governing education to identify those that impede innovation and student achievement; and
- 3) Identification of ways to integrate social and juvenile support systems into the public schools.

FISCAL IMPLICATIONS

The Legislative Finance Committee staff has forecast total liability under the 1997 state-tribal gaming compacts using estimates of net win at each of the tribal gaming facilities. These estimates have not been confirmed by the tribes, but the Gaming Control Board has expressed general agreement with these estimates.

Legislative Finance Committee staff analysis indicates that tribal governments have paid a total of \$60.8 million through December 31, 1999 under revenue sharing and regulatory fee provisions of the 1997 state tribal gaming compacts. This amount can be divided into three categories: 1) Amounts paid identified as revenue sharing; 2) Amounts paid identified as regulatory fees and 3) Payments made, but not specifically identified.

Total estimated liability from effective dates through December 31, 1999 is estimated by the LFC to be approximately \$104.1 million in revenue sharing and \$19.3 million in regulatory fees for a total of \$123.4

million. Thus, net liability remaining as of December 31, 1999 was estimated at a total of \$62.6 million.

In addition, the quarterly January 2000 back payments would be included in this bill. The quarterly tribal revenue sharing and regulatory fee payment was due in late January. According to the State Treasurer's Office, a total of \$3.5 million has been received so far. This represents payment of revenue sharing amounts of \$2.3 million by two tribes and payment of regulatory fees of \$1.2 million by 4 tribes. In comparison, there are currently 10 gaming tribes in New Mexico. Typically, some tribes pay late each quarter, so it is still not clear yet what the unpaid liability might be for the January 2000 quarterly payment. Total liability in January 2000 could be as high as \$16 million.

If all of the unpaid liability (both revenue sharing and regulatory fees) could be collected and falls within the intent of this bill, then that amount would be considered non-recurring, earmarked General Fund revenue.

The state's ability to enforce collection of this liability has been the subject of considerable discussion during the interim. The state's options appear to be arbitration, suing in federal court if willing to waive sovereign immunity or renegotiation. Because of these issues, there is also uncertainty regarding the timing of when the state might receive back payments if the payments could be enforced.

To be able to provide a better estimate of the revenue potentially available under the provisions of this bill, a more distinct definition of the back payments is needed. For example, do back payments include revenue sharing and regulatory fees? How would payments made by the tribes, but not identified, be considered for the back payment calculation?

ADMINISTRATIVE IMPLICATIONS

SDE indicated an additional FTE might be needed, but contractual services would also be considered.

POSSIBLE QUESTIONS

1. Do back payments include revenue sharing and regulatory fees?

2. How would payments made by the tribes, but not identified be considered for the back payment calculation?

AW/njw