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FISCAL IMPACT REPORT

| | | | | |
|--------------|---|-------------|----------|-------------------|
| SPONSOR: | McKibben | DATE TYPED: | 02/11/00 | HB |
| SHORT TITLE: | Income Tax Credit Funded by Tribal Gaming Back Payments | | | SB 336 |
| | | | | ANALYST: Williams |

REVENUE

| Estimated Revenue | | Subsequent Years Impact | Recurring or Non-Rec | Fund Affected |
|--------------------|------|----------------------------|-------------------------|------------------|
| FY00* | FY01 | | | |
| 51,300 to 66,200 | | | Non-Recurring | General Fund |
| (51,300 to 66,200) | | | | General Fund |

(Parenthesis () Indicate Revenue Decreases)

Conflicts with S 336, Relates to HB 19 and HB 71

SOURCES OF INFORMATION

Gaming Control Board (GCB)

Department of Finance and Administration (DFA)

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

This bill provides for an income tax credit to distribute payments of back payments due associated with the state's share of Native American gaming net win on slot machines. The credit would apply to each resident, spouse and dependents beginning tax year 2000. Inmates of a public institution for more than six months during the taxable year would not be eligible.

DFA is to determine the amount of revenue sharing payments or portions of payments due prior to January 1, 2000 which were collected by the state from January 1 through September 30, 2000 and for the period October 1 through September 30 thereafter. The credit would not apply if applicable payments are less than \$1 million. If the credit exceeds liability, the taxpayer could receive a refund.

FISCAL IMPLICATIONS

There is some uncertainty on the exact amount of tribal casino net win subject to revenue sharing provisions. However, the following estimates have been prepared based on LFC analysis of estimated total liability and total payments to date for each gaming tribe or pueblo.

Because of the lack of compliance with the existing revenue sharing agreements and because of the inability of the state to collect the back payments still due, there is considerable uncertainty on the extent to which and timing of collection of these estimated payments. After a considerable discussion during the interim, it appears the state's options appear to be arbitration, suing in federal court if willing to waive sovereign immunity or renegotiation.

For the time period of the effective dates of each compact through the end of December 1999, total revenue sharing liability by gaming tribes is estimated by LFC staff at \$104,100.0. Through that same time period, gaming tribes and pueblos paid \$37,900.0 in revenue sharing payments and an additional \$14,900.0 which was not identified as either revenue sharing or regulatory fees. Because of the uncertainty on how to classify the payments of \$14,900.0, there is a range on this estimate.

1) Excluding the Unidentified Payments

Total Due: \$104,100.0

Total Paid: \$37,900

Remaining Due \$66,200

2) Including the Unidentified Payments As Revenue Sharing

Total Due: \$104,100.0

Total Paid: \$52,800

Remaining Due: \$51,300

Thus, the potential magnitude of the back payment revenue related to slot machine net win would range from \$51,300.0 to \$66,200.0, with the total size of the credit at equal amounts, given that all back payments were paid.

In comparison, according to the GCB analysis, an estimated \$67,000.0 could be realized by the fund if all

tribes were to pay revenue sharing back payments. TRD estimate approximately \$51,200.0 in past due payments.

Note that back payments are not included in the consensus General Fund revenue estimates.

Approximately 1.5 million individuals are estimated to receive the credit. Thus, each individual could receive from \$34 to \$44.

TECHNICAL ISSUES

TRD suggested defining the source of the population estimate to avoid disputes over the population number used. The population of New Mexico could range from 1.5 to 1.75 million.

OTHER SUBSTANTIVE ISSUES

Note all residents of New Mexico may not file a personal income tax return; however, the credit is based on population.

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