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### FISCAL IMPACT REPORT

SPONSOR:	McKibben	DATE TYPED:	02-11-00	HB	
SHORT TITLE:	Revenue-Sharing Agreements			SB	436
				ANALYST:	Baca/Williams

#### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY00	FY01			
		\$27,333.0 to \$32,888.0*	Non-Rec	Native American Perm Fund
	\$ (5,625.0)	\$ (5,625.0)	Recurring	General Fund
	\$ 5,625.0	\$ 5,625.0	Recurring	Native American Perm Fund

(Parenthesis ( ) Indicate Revenue Decreases)

\* Uncertainty as to timing and collectability

Conflicts with SB 336; Relates to HB 19 and HB 71

#### SOURCES OF INFORMATION

LFC Files

Gaming Control Board (GCB)

Department of Finance and Administration (DFA)

## **SUMMARY**

### Synopsis of Bill

Senate Bill 436 creates the Native American Permanent Fund and establishes an advisory council. The council would receive information and advise the Legislature with respect to the revenue and investment issues of the fund in line with the needs of Native Americans that may be served with distributions from the fund. The advisory council would function until December 1, 2000.

The legislative intent is that the fund would appreciate in value. Distributions from the fund would be used to improve conditions and relations for Native Americans. The guidelines for determining fund distributions would be developed by the advisory council.

The bill provides that 37 ½ percent of the payments from existing tribal\state revenue sharing agreements and 50 percent of the payments from new revenue sharing agreements be distributed to the Native American Permanent Fund. Regulatory fees would not be distributed to the fund. The distribution provisions of the fund apply to future payments as well as to amounts due but not yet received by the state.

The bill has an emergency clause.

## **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 back payments. 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 last payment due date in late January 2000, total revenue sharing liability by gaming tribes is estimated by LFC staff at \$113,300.0. Through January 2000, gaming tribes and pueblos had paid \$40,200.0 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, this analysis is separated into 2 scenarios:

1) Excluding the Unidentified Payments

Total Due: \$113,300.0

Total Paid: \$40,200.0

Remaining Due: \$73,100.0

Applicable Rate From Bill: 37.5%

Amount to Native American Permanent Fund: \$27,413.0

2) Including the Unidentified Payments As Revenue Sharing

Total Due: \$113,300.0

Total Paid: \$55,100.0

Remaining Due: \$58,200.0

Applicable Rate From Bill: 37.5%

Amount to Native American Permanent Fund: \$21,825.0

In addition, because of the emergency clause on this bill, the impact could also include the April 2000 payment. It is unclear at this point how much of the total estimated revenue sharing liability of \$16.9 million will be paid in April. Only \$2,300.0 of revenue sharing payments was received in January. Assuming April payments are similar to January, revenue sharing back payments could be as high as \$14,600.0. At the rate of 37.5 percent, then the Native American Permanent Fund share could be \$5,475.0.

In summary back payments through the end of the fiscal year could be from \$27,300.0 (\$21,825.0 + 5,475.0) to \$32,888.0 (\$27,413.0+5,475.0). This revenue would be non-recurring revenue to the Native American Permanent Fund.

In comparison, according to the Gaming Control Board analysis, an estimated, additional \$25,000.0 could be realized by the fund if all tribes were to pay revenue sharing back payments.

For FY 01 payments, the general fund consensus revenue estimate forecasts revenue from tribal gaming of \$15,000.0. This estimate does not reflect the estimated total liability under the current compacts, but instead reflects the erosion of compliance by gaming tribes and pueblos. When scored against the revenue estimate, the 37.5 percent allocation would result in general fund revenue loss of \$5,625.0, and a corresponding increase in revenues to the Native American Permanent Fund.

The potential fiscal impact of 50 percent to the Native American Permanent Fund is indeterminate at this time because new state/tribal compacts are now being negotiated, and the revenue sharing rate has not yet been determined.

#### **CONFLICT/DUPLICATION/COMPANIONSHIP/RELATIONSHIP**

SB 436 conflicts with SB 336, which provides for an income tax credit to distribute payments made under tribal-state revenue sharing agreements. The credit would apply to each resident, resident's spouse and each dependent for the year 2000 and subsequent taxable years.

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