

# **CALIFORNIA GAMBLING CONTROL COMMISSION**

**NOVEMBER 3, 2005  
COMMISSION MEETING**

## **REVENUE SHARING TRUST FUND REPORT OF DISTRIBUTION TO NON-COMPACT TRIBES FOR THE QUARTER ENDED SEPTEMBER 30, 2005**

- PART 1 — Revenue Sharing Trust Fund Report of Distribution of Funds to Non-Compact Tribes for the Quarter Ended September 30, 2005**
- PART 2 — Indian Gaming Special Distribution Fund and Indian Gaming Revenue Sharing Trust Fund Quarterly Shortfall Distribution Report per Government Code Section 12012.90 for the Quarter Ended September 30, 2005**

# **PART 1**

## **Revenue Sharing Trust Fund Report of Distribution of Funds to Non-Compact Tribes for the Quarter Ended September 30, 2005**

**CALIFORNIA GAMBLING CONTROL COMMISSION**

Physical Address: 2399 Gateway Oaks Drive, Suite 100 • Sacramento, CA 95833-4231  
Mailing Address: P.O. Box 526013 • Sacramento, CA 95852-6013  
Phone: (916) 263-0700 • FAX: (916) 263-0499



DATE: November 3, 2005

TO: Gambling Control Commission

FROM: Gary Qualset, Deputy Director  
Compliance Division

SUBJECT: Revenue Sharing Trust Fund Report of Distribution of Funds to Non-Compact Tribes for the Quarter Ended September 30, 2005

**ISSUE:** *Can the Gambling Control Commission (Commission) make a current quarterly distribution from the Indian Gaming Revenue Sharing Trust Fund (IGRSTF) to each eligible Non-Compact Tribe for the quarter ended September 30, 2005?*

The Commission, as administrator for the IGRSTF, is required to make distributions from the IGRSTF in accordance with the Tribal-State Gaming Compacts (Compacts) sections 4.3.2.1 (a) and (b).

The IGRSTF serves as the depository for payments made by Tribes that acquire and maintain gaming device licenses and interest income earned by the IGRSTF. The process for allocating licenses and the awarding thereof by the administrator is outlined in Section 4.3.2.2. This Section also specifies the amounts that shall be paid for license fees.

To date, the Commission has approved the distribution of approximately \$146.38 million in license fees, payments, and interest income from the IGRSTF covering twenty fiscal quarters from July 1, 2000 through June 30, 2005. The current distribution being proposed will make a distribution of the actual amount of license fees received and interest income that may have been deposited in the IGRSTF within the quarter ended September 30, 2005, leaving an undistributed balance of license fees, payments received, and interest income in the IGRSTF as of that date of less than \$1.00.

As shown in Exhibit 1, all eligible tribes will be receiving \$116,412.68 from license fees and interest income with this distribution for the quarter ended September 30, 2005. Total license fees of approximately \$8.11 million and interest earned of \$33,400.16 for the quarterly period ended September 30, 2005 and deposited in July 2005 into the IGRSTF for the quarter ended September 30, 2005 amounted to approximately \$8.14 million. Approved distributions will be held only in the event there is no existing tribal chairperson or representative with whom the BIA conducts government-to-government relations, or there is some other unusual situation which calls into question the Commission's ability to distribute funds to the tribe or otherwise carry out its obligation pursuant to Section 4.3.2.1 (b). The remaining receipts are equally distributed to the seventy (70) tribes listed in Exhibit 1 as eligible Non-Compact recipient tribes (pending receipt of outstanding eligibility certification forms, if any). Thus, the equal share distribution amount per tribe for this quarter is as noted above.

At the end of the calendar quarter for distribution and as of the close of business on September 30, 2005, the amount of outstanding license fee payments due into the IGRSTF was approximately \$1.70 million. If the total license fee payments due at the end of this quarter had been paid into the IGRSTF, recipient tribes would have received \$24,315.50 in additional

moneys along with this quarter's distribution. The Commission makes quarterly distributions on a cash basis based on the amount of available funds in the IGRSTF for each quarter. Total outstanding and due license fee payments for the quarter ended September 30, 2005 are summarized in Table 1 below:

<b>Table 1</b>		
<b>Indian Gaming Revenue Sharing Trust Fund License Fee Payment Aging Schedule as of September 30, 2005</b>		
<b>Quarter(s) in Arrears</b>	<b>Number of Tribes</b>	<b>Amount of License Fees Due</b>
Less than 1	0	\$0.00
1	6	1,570,462.50
2	5	131,623.16
<b>Totals</b>	<b>11</b>	<b>\$1,702,085.66</b>

Table 1 shows the number of tribes that are in arrears and the amount due in accordance with the terms of the original 1999 Compacts. The amount due includes an estimate of prorated fees for partial quarterly amounts. Compact Section 4.3.2.3 provides that a tribe shall not conduct any gaming activity authorized by the Compact if the tribe is more than two quarterly contributions in arrears in its license fee payments into the IGRSTF.

Effective September 2, 2004, five (5) Compacts of 1999 were amended related to fees due to the IGRSTF from the tribes that amended their Compacts. These fees are to maintain the existing gaming device licenses that are held by each of these tribes. Amended Compact Section 4.3.2.2 provides that the tribes shall deposit fees within 30 days of the end of the each calendar quarter.

The Commission, as administrator, sends out quarterly invoices for the payment of license fees near the beginning of each quarter. Additionally, the Commission follows standard collection practices, which includes noticing those of past due amounts, and has initiating procedures if action is needed under the provisions of Compact Section 4.3.2.3 noted above.

The distribution amounts for each tribe that are presented in the attached report are subject to audit and subsequent verification of eligibility by the Commission. In accordance with the Commission's methodology for determining a Non-Compact Tribe, it is also being recommended that this distribution be on a conditional basis pending receipt of certification of the maximum number of gaming devices operated during the quarter by each tribe that is required to submit a completed certification form. Tribes that are required to complete the certification form are those tribes that entered into Compacts with the State of California and have operated less than three hundred-fifty gaming devices during the entire quarter for this distribution.

Pursuant to Item 0855-101-0366 of the Budget Act of 2005, \$46.0 million was appropriated for distribution to Non-Compact Tribes. Per Provision 3 of Item 0855-101-0366, the following information is requested according to control language as part of any request to augment Item 0855-101-0366. Although no augmentation is being requested with this distribution, we are submitting the following report information voluntarily.

## **1. The Methodology for Determining a Non-Compact Tribe**

Per Section 4.3.2(a)(i) of the Compact, the term “Compact Tribe” and “Non-Compact Tribe” is defined as:

A “Compact Tribe” is a tribe having a compact with the State that authorizes the Gaming Activities authorized by this Compact. Federally-recognized tribes that are operating fewer than 350 Gaming Devices are “Non-Compact Tribes.” Non-Compact Tribes shall be deemed third party beneficiaries of this and other compacts identical in all material respects. A Compact Tribe that becomes a Non-Compact Tribe may not thereafter return to the status of a Compact Tribe for a period of two years becoming a Non-Compact Tribe (sic).

For this distribution from the IGRSTF, the Commission used the following procedures as the methodology for determining if a tribe is a Non-Compact Tribe:

- A. Identify all tribes in the State of California that are Federally-recognized based on information obtained from the U. S. Department of Interior, Bureau of Indian Affairs, and a legal opinion received from the State Attorney General’s Office.
- B. Request that each Non-Compact Tribe that entered into Compacts with the State that is to receive a distribution certify the maximum number of gaming devices operated during the quarter by completing and filing a Tribal-State Compact Gaming Device Certification Form (CGCC-C2005.01). Receive this form from each eligible tribe in accordance with the streamlined verification procedure implemented by the Commission. This form was mailed to Tribes for completion and filing and is also available on the Commission’s website at [www.cgcc.ca.gov](http://www.cgcc.ca.gov).
- C. Classify all tribes identified in step A based on the information obtained in step B as either: 1) Compact Tribes operating 350 or more gaming devices, 2) Non-Compact Tribes as defined by the Compact, 3) non-compact gaming tribes, or a combination of classification 1) and 3).
- D. Classify all Non-Compact Tribes identified in part 2) of step C as eligible Non-Compact non-gaming tribes and Non-Compact gaming tribes that have submitted the requested certification form to the Commission if required.
- E. Prepare a list of Non-Compact Tribes based on the most recent information reported to the Commission.

## **2. A list of the Non-Compact Tribes Identified Based on the Commission’s Methodology**

A list of all Non-Compact Tribes as identified by the methodology identified in item 1 above is attached as Exhibit 1.

## **3. A Fund Condition Report Including the Amount of Revenue Received From Each Compact Tribe**

A fund condition statement for the IGRSTF through September 30, 2005, for the fiscal year 2005-06 is attached as Exhibit 2. A listing of the amount of revenue from each Compact Tribe received by the Commission is attached as Exhibit 3.

#### 4. The Amount of Funds to be Distributed to Each Non-Compact Tribe

The amount of funds to be distributed to each Non-Compact Tribe is listed in Exhibit 1 that is attached. The recommended distribution to each tribe listed in Exhibit 1 is subject to verification of eligibility and receipt of a Tribal-State Compact Gaming Device Certification Form (CGCC-C2005.01), if required.

**RECOMMENDATION:** *It is recommended that:*

*1) the Commission approve distribution of the current full quarterly amount of approximately \$8.14 million of all payments made by tribes and any interest income received by the IGRSTF during the most recent quarter ended September 30, 2005, to the listed tribes that are determined to be eligible Non-Compact Tribes in accordance with the Commission's identified methodology for determining a Non-Compact Tribe as shown in Exhibit 1 attached to this report, and any interest accrued for previously approved distributions held in abeyance in the IGRSTF but not immediately disbursed, and*

*2) approval of distributions shall be made on a conditional basis subject to receipt of any required eligibility certification of the maximum number of gaming devices operated during the quarter by each tribe that is required to submit a completed certification form.*

**Exhibit 1****Non-Compact Tribes Eligible to Receive a Distribution from the IGRSTF (Based on the Commission's Methodology) and the Amount of Funds Recommended for Distribution**

<b>Non-Compact Indian Tribe</b>		<b>Amount of Funds Recommended to be Distributed</b>
1	Alturas Indian Rancheria	\$116,412.68
2	Bear River Band of the Rohnerville Rancheria	116,412.68
3	Benton Paiute Reservation	116,412.68
4	Big Lagoon Rancheria	116,412.68
5	Big Pine Reservation	116,412.68
6	Big Sandy Rancheria	116,412.68
7	Bridgeport Paiute Indian Colony	116,412.68
8	Buena Vista Rancheria	116,412.68
9	Cahto Indian Tribe of the Laytonville Rancheria	116,412.68
10	Cahuilla Band of Mission Indians	116,412.68
11	California Valley Miwok Tribe	116,412.68
12	Cedarville Rancheria	116,412.68
13	Chemehuevi Indian Tribe	116,412.68
14	Cher-Ae Heights Indian Community	116,412.68
15	Chicken Ranch Rancheria	116,412.68
16	Cloverdale Rancheria	116,412.68
17	Cold Springs Rancheria	116,412.68
18	Colorado River Indian Tribes	116,412.68
19	Cortina Rancheria	116,412.68
20	Death Valley Timbi-Sha Shoshone Tribe	116,412.68
21	Elem Indian Colony	116,412.68
22	Elk Valley Rancheria	116,412.68
23	Enterprise Rancheria	116,412.68
24	Ewiiaapaayp Band of Kumeyaay Indians	116,412.68
25	Federated Indians of Graton Rancheria	116,412.68
26	Fort Bidwell Indian Community	116,412.68
27	Fort Independence Reservation	116,412.68
28	Fort Mojave Indian Tribe	116,412.68
29	Greenville Rancheria	116,412.68
30	Grindstone Rancheria	116,412.68
31	Guidiville Rancheria	116,412.68
32	Hoopa Valley Tribe	116,412.68
33	Inaja-Cosmit Mission Indians	116,412.68
34	Ione Band of Miwok Indians	116,412.68
35	Jamul Indian Village	116,412.68
36	Karuk Tribe of California	116,412.68
37	La Jolla Band of Mission Indians	116,412.68

**Exhibit 1****Non-Compact Tribes Eligible to Receive a Distribution from the IGRSTF (Based on the Commission's Methodology) and the Amount of Funds Recommended for Distribution**

<b>Non-Compact Indian Tribe</b>		<b>Amount of Funds Recommended to be Distributed</b>
38	La Posta Band of Mission Indians	116,412.68
39	Lone Pine Reservation	116,412.68
40	Los Coyotes Band of Cahuilla Indians	116,412.68
41	Lower Lake Rancheria	116,412.68
42	Lytton Rancheria	116,412.68
43	Manchester Point Arena Rancheria	116,412.68
44	Manzanita Mission Indians	116,412.68
45	Mechoopda Indian Tribe	116,412.68
46	Mesa Grande Mission Indians	116,412.68
47	Northfork Rancheria	116,412.68
48	Paiute Bishop Community	116,412.68
49	Pinoleville Rancheria	116,412.68
50	Pit River Tribe	116,412.68
51	Potter Valley Rancheria	116,412.68
52	Quartz Valley Indian Community	116,412.68
53	Quechan Tribe of Fort Yuma	116,412.68
54	Ramona Mission Indians	116,412.68
55	Redwood Valley Rancheria	116,412.68
56	Resighini Rancheria	116,412.68
57	Round Valley Indian Tribe	116,412.68
58	<a href="#">Santa Rosa Band of Cahuilla Mission Indians</a>	116,412.68
59	Santa Ysabel Mission Indians	116,412.68
60	Scotts Valley Band of Pomo Indians	116,412.68
61	Sherwood Valley Pomo Indians	116,412.68
62	Shingle Springs Rancheria	116,412.68
63	Smith River Rancheria	116,412.68
64	Stewarts Point Rancheria	116,412.68
65	Susanville Indian Rancheria	116,412.68
66	Table Bluff Reservation	116,412.68
67	Torrez-Martinez Mission Indians	116,412.68
68	Upper Lake Band of Pomo Indians	116,412.68
69	Washoe Tribe of Nevada & California	116,412.68
70	Yurok Tribe of the Yurok Reservation	116,412.68
	<b>Total</b>	<b>\$8,148,887.60<sup>1</sup></b>

Footnotes:

1. The total amount of distribution to each tribe is subject to audit and verification by the Commission. Future distributions may be adjusted for any overpayments or underpayments that may have been made. If a tribe is subsequently determined to be a "Compact Tribe" by definition of the Compact, and is therefore not eligible for future distributions, any overpayments that may be made are subject to refund by a tribe(s) to the Commission. The above distributions are being recommended for distribution on a conditional basis and are subject to verification of eligibility. Distributions will only be made after receipt of a Tribal-State Compact Gaming Device Certification Form (CGCC-C2005.01) that indicates eligibility in accordance with the terms of the Compact.

## EXHIBIT 2

**CALIFORNIA GAMBLING CONTROL COMMISSION**  
**0366 - INDIAN GAMING REVENUE SHARING TRUST FUND**  
**FUND CONDITION STATEMENT**  
**For the three months ended September 30, 2005**  
**Cash Basis**

BEGINNING BALANCE	\$	6,959,717.06
REVENUES AND TRANSFERS		
Revenues:		
150300 Income from surplus money investments		33,400.16
216900 License fees held in trust		8,115,487.50
Transfer from the Indian Gaming Special Distribution Fund		48,483,757.00
To IGRSTF for shortfall per Senate Bill No. 77		
(Chapter 38, Statutes of 2005)		
		48,483,757.00
		8,115,487.50
		33,400.16
Totals, Revenues	\$	56,632,644.66
Totals, Resources	\$	63,592,361.72
EXPENDITURES		
Disbursements:		
Distribution	\$	6,398,585.87
Fiscal Year 2004-2005 shortfall distribution per Senate Bill		
No. 77 (Chapter 38, Statutes of 2005) and Government Code		
Section 12012.90		46,405,881.70
		46,405,881.70
Totals, Expenditures	\$	52,804,467.57
FUND BALANCE, prior to distribution	\$	10,787,894.15
Disbursements, pending distribution		8,148,887.60
Disbursements, pending Quarter Ended 6/30/2005 distribution		286,130.67
Disbursements, pending Fiscal Year 2004-2005 shortfall distribution		2,077,875.30
Assembly Bill No. 673 (Chapter 210, Statutes of 2003) and		
Government Code Section 12012.90 reserve pending audit resolution		275,000.00
		275,000.00
FUND BALANCE, after distribution	\$	0.58

**Exhibit 3****Amount of Revenue from Each Compact Tribe Received by the Commission Through September 30, 2005 for the Fiscal Year Ending June 30, 2006**

	<b>Compact Tribe</b>	<b>Revenue Received Fiscal Year to Date</b>	<b>Revenue Received Inception to Date</b>
1	Agua Caliente Band of Cahuilla Indians	\$137,287.50	\$3,873,143.75
2	Alturas Indian Rancheria	0.00	187,500.00
3	Augustine Band of Mission Indians	0.00	437,500.00
4	Barona Band of Mission Indians	184,087.50	3,774,550.27
5	Bear River Band of the Rohnerville Rancheria	0.00	0.00
6	Berry Creek Rancheria	0.00	617,500.00
7	Big Sandy Rancheria	0.00	0.00 <sup>2</sup>
8	Big Valley Rancheria	0.00	500,000.00
9	Blue Lake Rancheria	0.00	437,500.00
10	Buena Vista Rancheria	0.00	0.00 <sup>2</sup>
11	Cabazon Band of Mission Indians	633,375.00	4,225,442.05
12	Cahto Indian Tribe of the Laytonville Rancheria	0.00	0.00
13	Cahuilla Band of Mission Indians	0.00	125,000.00
14	Campo Band of Diegueno Mission Indians	0.00	500,000.00
15	Chemehuevi Indian Tribe	0.00	0.00 <sup>2</sup>
16	Cher-Ae Heights Indian Community	0.00	0.00
17	Chicken Ranch Rancheria	0.00	0.00
18	Colusa Rancheria	0.00	403,750.00
19	Dry Creek Rancheria	667,500.00	7,176,996.58
20	Elem Indian Colony	0.00	0.00
21	Elk Valley Rancheria	0.00	62,500.00
22	Ewiiapaayp Band of Kumeyaay Indians	0.00	2,437,433.22
23	Hoopla Valley Tribe	0.00	0.00
24	Hopland Band of Pomo Indians	54,450.00	2,119,408.57
25	Jackson Rancheria	0.00	3,026,877.22
26	Jamul Indian Village	0.00	0.00
27	La Jolla Band of Luiseno Indians	0.00	0.00
28	Manchester Point Arena Rancheria	0.00	0.00
29	Manzanita Band of Mission Indians	0.00	0.00
30	Middletown Rancheria	0.00	187,500.00
31	Mooretown Rancheria	0.00	692,013.70
32	Morongo Band of Mission Indians	0.00	497,300.00
33	Paiute Bishop Tribe	0.00	0.00
34	Pala Band of Mission Indians	500,000.00	14,871,569.58
35	Paskenta Band of Nomlaki Indians	0.00	528,750.00
36	Pauma/Yuima Band of Mission Indians	0.00	1,080,421.61
37	Pechanga Band of Mission Indians	71,325.00	1,533,780.62
38	Picayune Rancheria	551,250.00	9,848,969.18

**Exhibit 3****Amount of Revenue from Each Compact Tribe Received by the Commission Through September 30, 2005 for the Fiscal Year Ending June 30, 2006**

	<b>Compact Tribe</b>	<b>Revenue Received Fiscal Year to Date</b>	<b>Revenue Received Inception to Date</b>
39	Pit River Tribe	0.00	0.00
40	Quechan Indian Nation	0.00	0.00
41	Redding Rancheria	0.00	687,500.00
42	Resighini Rancheria	0.00	0.00
43	Rincon Band of Mission Indians	445,000.00	7,288,246.58
44	Robinson Rancheria	0.00	275,000.00
45	Rumsey Rancheria	500,000.00	5,634,900.62
46	San Manuel Band of Mission Indians	224,550.00	4,828,747.81
47	San Pasqual Band of Diegueno Indians	230,100.00	6,261,281.91
48	Santa Rosa Indian Community	636,075.00	13,042,151.51
49	Santa Ynez Band of Chumash Indians	328,875.00	7,072,164.04
50	Sherwood Valley Rancheria	0.00	0.00
51	Shingle Springs Rancheria	0.00	1,238,750.00
52	Smith River Rancheria	0.00	0.00
53	Soboba Band of Mission Indians	216,262.50	3,858,730.59
54	Susanville Indian Rancheria	0.00	0.00
55	Sycuan Band of Mission Indians	584,962.50	12,579,097.71
56	Table Mountain Rancheria	292,312.50	6,285,920.03
57	Tule River Reservation	513,450.00	2,897,124.04
58	Tuolumne Rancheria	0.00	828,750.00
59	Twenty-Nine Palms Band of Mission Indians	344,625.00	7,410,853.77
60	United Auburn Indian Community	500,000.00	7,446,560.76
61	Viejas Band of Mission Indians	500,000.00	4,192,366.54
	<b>Totals</b>	<b>8,115,487.50</b>	<b>150,973,552.26</b>
	Interest	33,400.16	3,645,862.35
	<b>Grand Totals</b>	<b>\$8,148,887.66<sup>†</sup></b>	<b>\$154,619,414.61</b>

## Footnotes:

1. See Exhibit 2 for a copy of a fund condition statement for the Fund for the quarter ended September 30, 2005, which is the most recent quarter-end for which a distribution has been recommended for payment.
2. Prepayment receipts were returned to payor tribes for the return of unused putative gaming device licenses issued by Sides Accountancy Corporation. Licenses in equal number were issued by the Commission on September 5, 2002 resulting in \$2,137,500 in prepayment fees to the Fund.

## **PART 2**

**Indian Gaming Special Distribution Fund and  
Indian Gaming Revenue Sharing Trust Fund  
Quarterly Shortfall Distribution Report per  
Government Code Section 12012.90 for the  
Quarter Ended September 30, 2005**

**CALIFORNIA GAMBLING CONTROL COMMISSION**

Physical Address: 2399 Gateway Oaks Drive, Suite 100 • Sacramento, CA 95833-4231  
Mailing Address: P.O. Box 526013 • Sacramento, CA 95852-6013  
Phone: (916) 263-0700 • FAX: (916) 263-0499



DATE: November 3, 2005

TO: Gambling Control Commission

FROM: Gary Qualset, Deputy Director  
Compliance Division

SUBJECT: Indian Gaming Special Distribution Fund and Indian Gaming Revenue Sharing Trust Fund Quarterly Shortfall Distribution Report per Government Code Section 12012.90 for the Quarter Ended September 30, 2005

Government Code Section 12012.90, provides a mechanism that requires the California Gambling Control Commission (Commission) to distribute moneys appropriated and transferred from the Indian Gaming Special Distribution Fund (SDF) to the Indian Gaming Revenue Sharing Trust Fund (RSTF) for the purpose of making payments of any shortfalls that may occur in the RSTF.

Assembly Bill 1750 (Committee on Governmental Organization) Chapter 720, Statutes of 2005 was recently enacted to add new provisions, modify existing requirements, and make inapplicable certain existing provisions of Government Code Section 12012.90. The bill included an urgency clause to take effect immediately and was chaptered on October 7, 2005. The primary change in the RSTF shortfall distribution process that will occur with the passage of Assembly Bill 1750 is that RSTF shortfall distributions will now be accelerated and made in increments on a quarterly basis as opposed to being made at the conclusion of each fiscal year. The maximum amount of each quarterly distribution shall not exceed \$275,000. The RSTF shortfall distribution amount for each quarter will be added to the license fee contributions and interest income received within each quarter so each quarterly distribution to eligible recipient Indian tribes will be \$275,000. A copy of Assembly Bill 1750 (with staff editorial comment and formatting) and the Governor's signing message are attached to the end of this report for your information. It is the understanding of Commission staff that a letter of Legislative intent for Assembly Bill 1750 will be submitted by the Chairman of the Assembly Committee on Governmental Organization for publication in the Assembly Daily Journal of the Legislature that will clarify the timeframe for making quarterly distributions to eligible recipient Indian tribes. The intent was to ensure that gaming tribes' eligibility for receipt of any distributions would have to be verified through the tribes' filing of a Gaming Device Certification Form before a payment would be made.

Assembly Bill 1750 amended Government Code Section 12012.90 to require the Commission to:

- Determine the anticipated total amount of shortfall in payments likely to occur in the RSTF for the upcoming fiscal year and provide to the committees in the Legislature that consider the State Budget an estimate of the amount needed to transfer from the SDF to backfill the RSTF for the next fiscal year on or before the date of the May budget revision for each fiscal year,

- Make quarterly payments from the RSTF within forty-five (45) days of the end of each fiscal quarter as long as certification of eligibility has been submitted by a Tribe, if required,
- Take into consideration any surplus transfer of funds from the SDF to the RSTF in determining the amount needed to transfer for future years. Any surplus transfer of funds from the SDF shall now remain in the RSTF,
- Consult with the Department of Finance if the amount appropriated is insufficient to make quarterly distributions of \$275,000 for each quarter so the Department of Finance can submit to the Legislature a request for budget augmentation for the current fiscal year along with an explanation of why the amount appropriated was insufficient,
- Include specified information in the quarterly RSTF distribution report.

Assembly Bill 1750 also appropriated for transfer from the SDF to the RSTF for fiscal year 2005-06 \$50 million for distribution to each eligible recipient Indian tribe on a quarterly basis.

Government Code Section 12012.90 previously required the Commission to:

- Determine the aggregate amount of shortfalls in payments that occurred in the RSTF pursuant to Section 4.3.2.1 of the Tribal-State Gaming Compacts (Compact) for the fiscal years commencing with the 2002-03 fiscal year to the 2004-05 fiscal year,
- Report to the committees in the Legislature that consider the State Budget an estimate of the amount needed to backfill the RSTF on or before the date of the May budget revision for each fiscal year, and
- Distribute the moneys without delay, upon a transfer and appropriation from the SDF to the RSTF, to eligible recipient Indian tribes for each quarter that a tribe was eligible to receive a distribution during the fiscal year immediately preceding, and furthermore the statute,
- Previously specified that any transfer of funds from the SDF to the RSTF that results in a surplus shall revert back to the SDF.

Upon approval of the quarterly distribution amount presented as Part 1 of this report it will be determined that each of the seventy (70) eligible recipient Indian tribes received \$116,412.68 from the RSTF for the quarter ended September 30, 2005, resulting in a quarterly shortage of \$158,587.32 for each eligible recipient Indian tribe. The quarterly amount of the shortfall in payments to all eligible recipient Indian tribes for the quarter ended September 30, 2005, totals \$11,101,112.40.

No reporting of this information to the Legislature is presently required. However, it is recommended by Commission staff that the Commission voluntarily provide a copy of this report to the Legislature for informational purposes.

As noted above, Assembly Bill 1750 appropriated \$50 million for transfer from the SDF to the RSTF for fiscal year 2005-06 for distribution to each eligible recipient Indian tribe on a quarterly basis. Commission staff will work with our Accounting Office, the State Controller's Office, and the Department of Finance to ensure that the transfer and distribution of these moneys are made as quickly as possible.

**RECOMMENDATION:** *It is recommended that the Commission approve Part 2 of this report to be submitted to the Legislature and the amounts of shortfall shown in Exhibit 1 determined pursuant to the stipulations prescribed in Government Code Section 12012.90.*

**Exhibit 1****Quarterly Amount of Shortfall in Payments that Occurred in the Indian Gaming Revenue Sharing Trust Fund for the Quarter Ended September 30, 2005**

	<b>Eligible Recipient Indian Tribe</b>	<b>Total Potential Quarterly Distribution</b>	<b>Total Recommended Quarterly Distribution</b>	<b>Quarterly Shortfall</b>
1	Alturas Indian Rancheria	\$275,000.00	\$116,412.68	\$158,587.32
2	Bear River Band of the Rohnerville Rancheria	275,000.00	116,412.68	158,587.32
3	Benton Paiute Reservation	275,000.00	116,412.68	158,587.32
4	Big Lagoon Rancheria	275,000.00	116,412.68	158,587.32
5	Big Pine Reservation	275,000.00	116,412.68	158,587.32
6	Big Sandy Rancheria	275,000.00	116,412.68	158,587.32
7	Bridgeport Paiute Indian Colony	275,000.00	116,412.68	158,587.32
8	Buena Vista Rancheria	275,000.00	116,412.68	158,587.32
9	Cahto Indian Tribe of Laytonville Rancheria	275,000.00	116,412.68	158,587.32
10	Cahuilla Band of Mission Indians	275,000.00	116,412.68	158,587.32
11	California Valley Miwok Tribe	275,000.00	116,412.68	158,587.32
12	Cedarville Rancheria	275,000.00	116,412.68	158,587.32
13	Chemehuevi Indian Tribe	275,000.00	116,412.68	158,587.32
14	Cher-Ae Heights Indian Community	275,000.00	116,412.68	158,587.32
15	Chicken Ranch Rancheria	275,000.00	116,412.68	158,587.32
16	Cloverdale Rancheria	275,000.00	116,412.68	158,587.32
17	Cold Springs Rancheria	275,000.00	116,412.68	158,587.32
18	Colorado River Indian Tribes	275,000.00	116,412.68	158,587.32
19	Cortina Rancheria	275,000.00	116,412.68	158,587.32
20	Death Valley Timbi-Sha Shoshone Tribe	275,000.00	116,412.68	158,587.32
21	Elem Indian Colony	275,000.00	116,412.68	158,587.32
22	Elk Valley Rancheria	275,000.00	116,412.68	158,587.32
23	Enterprise Rancheria	275,000.00	116,412.68	158,587.32
24	Ewiiapaayp Band of Kumeyaay Indians	275,000.00	116,412.68	158,587.32
25	Federated Indians of Graton Rancheria	275,000.00	116,412.68	158,587.32
26	Fort Bidwell Indian Community	275,000.00	116,412.68	158,587.32
27	Fort Independence Reservation	275,000.00	116,412.68	158,587.32
28	Fort Mojave Indian Tribe	275,000.00	116,412.68	158,587.32

**Exhibit 1****Quarterly Amount of Shortfall in Payments that Occurred in the Indian Gaming Revenue Sharing Trust Fund for the Quarter Ended September 30, 2005**

	<b>Eligible Recipient Indian Tribe</b>	<b>Total Potential Quarterly Distribution</b>	<b>Total Recommended Quarterly Distribution</b>	<b>Quarterly Shortfall</b>
29	Greenville Rancheria	275,000.00	116,412.68	158,587.32
30	Grindstone Rancheria	275,000.00	116,412.68	158,587.32
31	Guidiville Rancheria	275,000.00	116,412.68	158,587.32
32	Hoopla Valley Tribe	275,000.00	116,412.68	158,587.32
33	Inaja-Cosmit Mission Indians	275,000.00	116,412.68	158,587.32
34	Ione Band of Miwok Indians	275,000.00	116,412.68	158,587.32
35	Jamul Indian Village	275,000.00	116,412.68	158,587.32
36	Karuk Tribe of California	275,000.00	116,412.68	158,587.32
37	La Jolla Band of Mission Indians	275,000.00	116,412.68	158,587.32
38	La Posta Band of Mission Indians	275,000.00	116,412.68	158,587.32
39	Lone Pine Reservation	275,000.00	116,412.68	158,587.32
40	Los Coyotes Band of Cahuilla Indians	275,000.00	116,412.68	158,587.32
41	Lower Lake Rancheria	275,000.00	116,412.68	158,587.32
42	Lytton Rancheria	275,000.00	116,412.68	158,587.32
43	Manchester Point Arena Rancheria	275,000.00	116,412.68	158,587.32
44	Manzanita Mission Indians	275,000.00	116,412.68	158,587.32
45	Mechoopda Indian Tribe	275,000.00	116,412.68	158,587.32
46	Mesa Grande Mission Indians	275,000.00	116,412.68	158,587.32
47	Northfork Rancheria	275,000.00	116,412.68	158,587.32
48	Paiute Bishop Community	275,000.00	116,412.68	158,587.32
49	Pinoleville Reservation	275,000.00	116,412.68	158,587.32
50	Pit River Tribe	275,000.00	116,412.68	158,587.32
51	Potter Valley Rancheria	275,000.00	116,412.68	158,587.32
52	Quartz Valley Indian Community	275,000.00	116,412.68	158,587.32
53	Quechan Tribe of Fort Yuma	275,000.00	116,412.68	158,587.32
54	Ramona Mission Indians	275,000.00	116,412.68	158,587.32
55	Redwood Valley Rancheria	275,000.00	116,412.68	158,587.32
56	Resighini Rancheria	275,000.00	116,412.68	158,587.32
57	Round Valley Indian Tribe	275,000.00	116,412.68	158,587.32
58	Santa Rosa Band of Cahuilla Mission Indians	275,000.00	116,412.68	158,587.32
59	Santa Ysabel Mission Indians	275,000.00	116,412.68	158,587.32
60	Scotts Valley Band of Pomo Indians	275,000.00	116,412.68	158,587.32
61	Sherwood Valley Pomo Indians	275,000.00	116,412.68	158,587.32
62	Shingle Springs Rancheria	275,000.00	116,412.68	158,587.32
63	Smith River Rancheria	275,000.00	116,412.68	158,587.32

**Exhibit 1****Quarterly Amount of Shortfall in Payments that Occurred in the Indian Gaming Revenue Sharing Trust Fund for the Quarter Ended September 30, 2005**

	<b>Eligible Recipient Indian Tribe</b>	<b>Total Potential Quarterly Distribution</b>	<b>Total Recommended Quarterly Distribution</b>	<b>Quarterly Shortfall</b>
64	Stewarts Point Rancheria	275,000.00	116,412.68	158,587.32
65	Susanville Indian Rancheria	275,000.00	116,412.68	158,587.32
66	Table Bluff Reservation	275,000.00	116,412.68	158,587.32
67	Torrez-Martinez Mission Indians	275,000.00	116,412.68	158,587.32
68	Upper Lake Band of Pomo Indians	275,000.00	116,412.68	158,587.32
69	Washoe Tribe of Nevada & California	275,000.00	116,412.68	158,587.32
70	Yurok Tribe of the Yurok Reservation	275,000.00	116,412.68	158,587.32
	<b>Total</b>	<b>\$19,250,000.00</b>	<b>\$8,148,887.60</b>	<b>\$11,101,112.40</b>

BILL NUMBER: AB 1750      CHAPTERED  
BILL TEXT

CHAPTER 720  
FILED WITH SECRETARY OF STATE OCTOBER 7, 2005  
APPROVED BY GOVERNOR OCTOBER 7, 2005  
PASSED THE ASSEMBLY SEPTEMBER 8, 2005  
PASSED THE SENATE SEPTEMBER 6, 2005  
AMENDED IN SENATE JUNE 30, 2005

INTRODUCED BY Committee on Governmental Organization (Jerome Horton (Chair), Plescia (Vice Chair), Aghazarian, Bermudez, Calderon, Chavez, Coto, Garcia, La Suer, Levine, Liu, Torrico, and Yee)

MARCH 9, 2005

An act to amend Section 12012.90 of the Government Code, relating to gaming, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1750, Committee on Governmental Organization Indian gaming.

(1) Existing law creates in the State Treasury the Indian Gaming Special Distribution Fund for the receipt and deposit of moneys received by the state from Indian tribes pursuant to the terms of tribal-state gaming compacts. Existing law authorizes moneys in that fund to be used by the Legislature for certain purposes, including for shortfalls in payments that occur in the Indian Gaming Revenue Sharing Trust Fund.

Money in that fund is available to the California Gambling Control Commission, upon appropriation by the Legislature, for distribution to noncompact tribes.

This bill would require the California Gambling Control Commission, commencing with the 2005-06 fiscal year, to determine the amount of money needed to be transferred from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund to ensure that each eligible recipient Indian tribe receives up to \$275,000 per quarter of the fiscal year. The bill would require the California Gambling Control Commission to make those payments to each eligible recipient Indian tribe within 45 days of the end of each quarter of the fiscal year. The bill would provide that if the transfer of funds results in a surplus, the funds shall remain in the Indian Gaming Revenue Sharing Trust Fund for disbursement in future years. The bill would provide that if the amount appropriated for the fiscal year is insufficient to provide eligible tribes \$275,000 for each fiscal quarter, the Department of Finance shall request an augmentation from the Legislature, as specified.

(2) The bill would appropriate \$50,000,000 from the Indian Gaming Special Distribution Fund to the California Gambling Control Commission for distribution to eligible recipient tribes.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 12012.90 of the Government Code is amended to read:

12012.90. (a) (1) For each fiscal year commencing with the 2002-03 fiscal year *to the 2004-05 fiscal year, inclusive*, the California Gambling Control Commission shall determine the aggregate amount of shortfalls in payments that occurred in the Indian Gaming Revenue Sharing Trust Fund pursuant to Section 4.3.2.1 of the tribal-state gaming compacts ratified and in effect as provided in subdivision (f) of Section 19 of Article IV of the California Constitution as determined below:

(A) For each eligible recipient Indian tribe that received money for all four quarters of the fiscal year, the difference between one million one hundred thousand dollars (\$1,100,000) and the actual amount paid to each eligible recipient Indian tribe during the fiscal year from the Indian Gaming Revenue Sharing Trust Fund.

(B) For each eligible recipient Indian tribe that received moneys for less than four quarters of the fiscal year, the difference between two hundred seventy-five thousand dollars (\$275,000) for each quarter in the fiscal year that a recipient Indian tribe was eligible to receive moneys and the actual amount paid to each eligible recipient Indian tribe during the fiscal year from the Indian Gaming Revenue Sharing Trust Fund.

(2) For purposes of this section, "eligible recipient Indian tribe" means a noncompact tribe, as defined in Section 4.3.2(a)(i) of the tribal-state gaming compacts ratified and in effect as provided in subdivision (f) of Section 19 of Article IV of the California Constitution.

**[Editorial Note: The below strikethrough text of subdivisions (b) through (d) of this Section 12012.90 of the Government Code are not applicable for each fiscal year commencing with the 2005 - 06 fiscal year, per subdivision (e) of this same Section.]**

~~(b) The California Gambling Control Commission shall provide to the committee in the Senate and Assembly that considers the State Budget an estimate of the amount needed to backfill the Indian Gaming Revenue Sharing Trust Fund on or before the date of the May budget revision for each fiscal year.~~

~~(c) An eligible recipient Indian tribe may not receive an amount from the backfill appropriated following the estimate made pursuant to subdivision (b) that would give the eligible recipient Indian tribe an aggregate amount in~~

~~excess of two hundred seventy-five thousand dollars (\$275,000) per eligible quarter. Any funds transferred from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund that result in a surplus shall revert back to the Indian Gaming Special Distribution Fund following the authorization of the final payment of the fiscal year.~~

~~(d) Upon a transfer of moneys from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund and appropriation from the trust fund, the California Gambling Control Commission shall distribute the moneys without delay to eligible recipient Indian tribes for each quarter that a tribe was eligible to receive a distribution during the fiscal year immediately preceding.~~

**[Editorial Note: The below shaded subdivision (e) of this Section 12012.90 of the Government Code is new statutory language that is now applicable.]**

(e) For each fiscal year commencing with the 2005-06 fiscal year, all of the following shall apply and subdivisions (b) to (d), inclusive, shall not apply:

(1) On or before the day of the May budget revision for each fiscal year, the California Gambling Control Commission shall determine the anticipated total amount of shortfalls in payment likely to occur in the Indian Gaming Revenue Sharing Trust Fund for the upcoming fiscal year, and shall provide to the committee in the Senate and Assembly that considers the State Budget an estimate of the amount needed to transfer from the Indian Gaming Special Distribution Fund to backfill the Indian Gaming Revenue Sharing Trust Fund for the next fiscal year. The anticipated total amount of shortfalls to be transferred from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund shall be determined by the California Gambling Control Commission as follows:

(A) The anticipated number of eligible recipient tribes that will be eligible to receive payments for the next fiscal year, multiplied by one million one hundred thousand dollars (\$1,100,000), with that product reduced by the amount anticipated to be paid by the tribes directly into the Indian Gaming Revenue Sharing Trust Fund for the fiscal year.

(B) This amount shall be based upon actual payments received into the Indian Gaming Revenue Sharing Trust Fund the previous fiscal year, with adjustments made due to amendments to existing tribal-state compacts or newly executed tribal-state compacts with respect to payments to be made to the Indian Gaming Revenue Sharing Trust Fund.

(2) The Legislature shall transfer from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund an amount sufficient for each eligible recipient tribe to receive a total not to exceed two hundred seventy-five thousand dollars (\$275,000) for each quarter in the upcoming fiscal year an eligible recipient tribe is eligible to receive moneys, for a total not to exceed one million, one hundred thousand dollars (\$1,100,000) for the entire fiscal year. The California Gambling Control Commission shall make quarterly payments from the Indian Gaming Revenue Sharing Trust Fund to each eligible recipient Indian tribe within 45 days of the end of each fiscal quarter.

(3) If the transfer of funds from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund results in a surplus, the funds shall remain in the Indian Gaming Revenue Sharing Trust Fund for disbursement in future years, and if necessary, adjustments shall be made to future distributions from the Indian Gaming Special Distribution Fund to the Revenue Sharing Trust Fund.

(4) In the event the amount appropriated for the fiscal year is insufficient to ensure each eligible recipient tribe receives the total of two hundred seventy-five thousand dollars (\$275,000) for each fiscal quarter, the Department of Finance, after consultation with the California Gambling Control Commission, shall submit to the Legislature a request for a budget augmentation for the current fiscal year with an explanation as to the reason why the amount appropriated for the fiscal year was insufficient.

*(5) At the end of each fiscal quarter, the California Gambling Control Commission's Indian Gaming Revenue Sharing Trust Fund report shall include information that identifies each of the eligible recipient tribes eligible to receive a distribution for that fiscal quarter, the amount paid into the Indian Gaming Revenue Sharing Trust Fund by each of the tribes pursuant to the applicable sections of the tribal-state compact, and the amount necessary to backfill from the Gaming Special Distribution Fund the shortfall in the Indian Gaming Revenue Sharing Trust Fund in order for each eligible recipient tribe to receive the total of two hundred seventy-five thousand dollars (\$275,000) for the fiscal quarter.*

*(6) Based upon the projected shortfall in the Indian Gaming Revenue Sharing Trust Fund, for the 2005-06 fiscal year, the sum of fifty million dollars (\$50,000,000) is hereby transferred from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund and is hereby appropriated from that fund to the California Gambling Control Commission for distribution to each eligible recipient tribe pursuant to this section.*

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for eligible recipient Indian tribes to receive moneys from the Indian Gaming Revenue Sharing Trust Fund to provide needed benefits to their tribal members in a timely manner, it is necessary that this act take effect immediately.

To the Members of the California State Assembly:

I am signing Assembly Bill 1750 (Committee on Governmental Organization).

This bill addresses the first priority of the Special Distribution Fund (SDF), which is to ensure that each Non-Compact Indian Tribe receives \$1.1 million annually from the Indian Gaming Revenue Sharing Trust Fund (RSTF). If RSTF funds are not sufficient to provide the Non-Compact Tribes with the full \$1.1 million, state law requires a sufficient amount from the Indian Gaming Special Distribution Fund (SDF) be transferred to the RSTF.

This bill will require that the transfer from the SDF to the RSTF occur on a quarterly basis so that quarterly payments of \$275,000 can be made to the Non-Compact Tribes, as envisioned in the original compacts. Providing equal and timely payments will allow recipient Tribes to use their resources to promote economic development, improve infrastructure, and strengthen Tribal governments.

Now that the first priority of the SDF has been addressed, this provides a good starting point to explore whether the remaining priorities are being addressed. Most notably, I am concerned that the state is not meeting its regulatory requirements as it relates to Indian Gaming, but at the same time there is continuing pressure from local government to provide additional funding for mitigation efforts which is a lower priority than the regulatory functions. In addition, this pressure for local funding is coming without a great deal of information as to how prior funds have been spent or whether they have been spent at all.

As it relates to the use of these Indian Gaming funds, it seems that the priorities of other interests have become more important than the state's own statutory priorities, and I intend to have further discussions on this issue with the Legislature.

Sincerely,

Arnold Schwarzenegger