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F I S C A L   I M P A C T   R E P O R T

SPONSOR:	SPAC	DATE TYPED:	03/16/01	HB	
SHORT TITLE:	Reduce Tax on Fraternal Gaming Licensee			SB	425/SPACS/aSFl #1/aHTRC
			ANALYST:		Williams

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY01	**FY02**			
	$ (675.7)	$ (737.1)	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files
Taxation and Revenue Department (TRD)
Gaming Control Board (GCB)

SUMMARY

Synopsis of HTRC Amendment

The House Taxation and Revenue Committee amendment strikes Senate floor amendment #1.

Synopsis of Senate Floor Amendment #1

The Senate Floor Amendment No. 1 limits vendor fees collected from New Mexico fraternal organizations on gaming machines to 33.3 percent.

Synopsis of SPAC Substitute

The bill would reduce the gaming tax to 10 percent for all veteran and fraternal organizations. In addition, the bill restricts the frequency, coverage and scope of licensee audits conducted by the GCB to issues and records of the licensee relevant to gaming. The bill limits GCB authority to inspect, examine, photocopy and audit documents and records only to those items relevant to gaming activities.

Synopsis of Original Bill

The bill would reduce the gaming tax to 10 percent for fraternal organizations that are organized as 501(c)(8) or 501(c)(10).

Significant Issues

State statute and gaming regulations for non-profit organizations do not define "vendor fees", rather distributions of net win after taxes and charitable and educational payments are based on a "revenue sharing" concept. Typically, non-profit organizations lease gaming machines from distributors and generally, after appropriate taxes and other required payments, 40 percent of "net take" goes back to the distributor. Distributors pay a monthly 10 percent tax on their typically 40 percent share of net take. In addition, the distributor may charge service fees to the non-profit organization ranging from $1 to $7 per day per machine. Therefore, it is not clear how the GCB would interpret the new language limiting "vendor fees".

TRD notes 501(c)(8) organizations must operate under a lodge system, and provide life, sickness, accident and other mutual benefits to members.

501(c)(10) organizations must operate under a lodge system, but not provide for life, sickness, accident and other mutual benefits, and net earnings of the organization must be devoted exclusively to religious, charitable, scientific, library, education and fraternal purposes.

501(c)(7) organizations are social clubs.

FISCAL IMPLICATIONS

Synopsis of Senate Floor Amendment #1

Based on industry information and GCB data, LFC staff base the fiscal impact analysis on net win of approximately $50 per machine per day in FY 01 and $45 per machine per day in FY02 and FY03. The latest data from GCB is attached. The FY02 general fund revenue loss for 11 months of the fiscal year is projected at $675.7 with a full year impact in FY03 of $737.1.

The reduction in the tax to 10 percent from the current 25 percent coupled with the changes in audit requirements may stimulate this industry. However, TRD notes even with the 25% tax, a fraternal organization could pay for a machine in about 135 days (exclusive of mandatory charitable contributions).

In comparison, using current net win per machine data, GCB projects a full year revenue loss of $768.9. TRD continues to assume an average net win per day of $113, which results in the higher estimate of $1,210.0 general fund revenue loss for a full year.

Synopsis of SPAC Substitute

TRD estimates the general fund revenue loss would be $1,160.0 in FY02 and $1,210.0 in FY03. The estimate assumes the 29 current eligible organizations, operating 206 machines with an average net win per day of $113. The full year loss would be $1,210.0; however, because the bill does not have an effective date, June receipts, reported in July, would be prorated. In FY03, the number of machines is assumed to rise to 420.

Synopsis of Original Bill

TRD estimates the general fund revenue loss would be $432.0 in FY02 and $900.0 in FY03. The estimate assumes the 15 current eligible organizations, operating 104 machines with an average net win per day of $111. The full year loss would be $451.0; however, because the bill does not have an effective date, June receipts, reported in July, would be prorated. In FY03, the number of organizations is assumed to rise to 30.

AW/ar
Attachment