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FISCAL IMPACT REPORT

ORIGINAL DATE 03/01/09
 LAST UPDATED 03/05/09 HB 763/aHBIC

SPONSOR Park

SHORT TITLE Gaming Machine Payout Liens SB _____

ANALYST Hanika-Ortiz

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		(\$0.1)	(\$0.1)		Recurring	General Fund
		\$0.1	\$0.1		Recurring	Gaming Control Board

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

Gaming Control Board (GCB)

Human Services Department (HSD)

SUMMARY

Synopsis of HBIC Amendment

The House Business and Industry Committee Amendment ensures that certain demographic information will only be provided for obligors owing a debt to or collected by HSD for **child support**; provides that an intent to enforce a lien and the amount will be provided by HSD within seven **working** days of a receipt of payout; and adds a new temporary provision enacting a moratorium on sanctions against an operator licensee who fails to identify an obligor, retain a lien amount or otherwise perform duties pursuant to this section, until July 1, 2010.

SIGNIFICANT ISSUES

The Amendment assumes that the electronic system provided by the Board for use by an operator licensee to search certain demographic information of persons owing a child support debt will be up and running by July 1, 2010.

Synopsis of Bill

House Bill 763 repeals section 60-2E-61 and replaces it with a new section in the Gaming

Control Act. The new section addresses procedures for attachment and enforcement of liens on certain gaming machine payouts won by a person owing a debt to or collected by the HSD. The proposed section to be repealed provided for the GCB to perform the lien process on gaming winnings.

Section A attaches a lien to racetrack gaming machine payouts of \$1,200 or more when won by a person owing debt to or collected by HSD, in its capacity as the state's child support enforcement agency pursuant to Title IV-D of the Social Security Act.

Section B requires HSD to periodically provide the Board a verified list of names, social security numbers, and last known addresses of persons owing a debt to or collected by the Department.

Section C requires the Board to adopt procedures for racetrack gaming operators when a lien occurs. The Board shall provide an "electronic system" for operators to search by name and social security numbers (SSN), persons currently owing a debt subject to or collected by the Department. Prior to payout, operators would make a good faith effort to check the name of the winner against the list of names and SSN's.

Section D requires the operators to retain the payout and notify HSD and the Board "on a form" of a match. HSD will promulgate rules for support obligors to contest the obligation prior to release of funds to the Department. Within seven days of receipt of the notice of payout, HSD will provide operators written notice of its intent to enforce a lien and the amount claimed. After receiving the notice of intent, the operator will retain the amount claimed in a suspense account and remit the balance to the payout winner. After which, the Department will "immediately" notify the licensee of the amount to be sent to the Department and the amount to be released to the winner.

Section E requires the Board to adopt rules for lien attachment procedures applicable to other gaming operators for payouts of \$1,200 or more.

Section F provides for a release of liability for the Board and gaming operators to HSD and the person on whose behalf the collection is being attempted if the licensee fails in good faith to match a winner to the certified list.

FISCAL IMPLICATIONS

The new section may provide a more expedient means of collecting debt owed by support obligors obtaining certain winnings from gaming establishments.

The bill creates a means for racetrack gaming operators to do an "on-line" check at a web page set up and maintained by the GCB Information Systems Division. The GCB estimates costs at \$4 thousand to set up and implement the website for online access and checking of payouts \$1,200 or greater. However, this estimate for such an "electronic system" seems low and may not include training and on-going technical support needs.

Based on a similar process in Colorado and an analysis of gaming winnings in New Mexico, HSD estimates annual child support collections of between \$200 thousand and \$300 thousand in New Mexico through implementation of HB 763. This amount has not been substantiated by the LFC or DFA and would be difficult to estimate.

SIGNIFICANT ISSUES

HSD reports that the bill would change the lien on winnings for gaming machine payouts to be similar to the Lien on Lottery Winnings (Section 6-24-22 NMSA 1978).

Provision changes from the existing 60-2E-61 include:

- the amount of the gaming machine payout subject to the lien is “\$1,200 or more”; the existing statute states, “in excess of \$1,200.” Many payouts are exactly \$1,200;
- the debtor’s address is added to the certified list to the Board, to help identify winners;
- the Board will adopt rules for racetrack operators and other gaming operators to participate in the lien process;
- the Board will provide an electronic list search method for the gaming operators, and the operators are responsible for matching, holding winnings and disbursing lien amounts instead of the Board, as in current statute;
- HSD is to promulgate an administrative process through rules for placing liens on winnings, which is similar to placing liens on Lottery winnings;
- HSD will have seven days to notify the gaming operator of intent to lien; and
- the liability waiver is extended to the board and the gaming operator for good faith efforts to match, whereas this only applies to the GCB in the current statute.

PERFORMANCE IMPLICATIONS

Information on support obligors’ names, social security numbers and addresses would need to be provided to the Board on a regular basis by the Child Support Enforcement Division of HSD.

ADMINISTRATIVE IMPLICATIONS

Under HB 763, HSD would develop rules and implement procedures for executing an administrative lien process. HSD would need to develop a referral file which includes the support obligors’ last known address.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 229 would also make significant changes to the same statute sections addressed in HB 763; however, it does not provide for a lien process as does HB 763.

TECHNICAL ISSUES

The bill does not discuss confidentiality provisions since names and social security numbers will be viewed by gaming operator staff.

The bill does not provide penalties for gaming operators (or staff) who choose not to perform these duties.

HSD will “immediately” notify the gaming operator of the amount to be sent to the Department and the amount to be released to the winner. The bill does not define “immediately”.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The GCB notes that the administrative process currently in place requiring notification of payouts in excess of \$1,200 occurs too late to hold or capture funds, \$0.00 has been collected. To date, no person who won a payout in excess of \$1,200 and owed child support has admitted to it. People who owe child support claim on their winnings-payout form, to not owe any past due child support.

AHO/svb:mc