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

		ORIGINAL DATE	02/10/13		
SPONSOR	SFC	**LAST UPDATED**	03/15/13	**HB**	
SHORT TITLE	Live Horse Race Expense Gaming Tax Credit			**SB**	265/SCORCS/SFCS/a HTRC
				ANALYST	van Moorsel

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY13	**FY14**	**FY15**	**FY16**	**FY17**		
$0.0	$0.0	($2,615.9)	($2,579.1)	($2,552.2)	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
Economic Development Department (EDD)

Responses Not Received From
State Racing Commission (SRC)

SUMMARY

Synopsis of HTRC Amendment

The House Taxation and Revenue Committee Amendment changes the effective date of the bill from July 1, 2013 to July 1, 2014.

Synopsis of Bill

Senate Finance Committee Substitute for Senate Corporations Committee Substitute for Senate Bill 265 creates a new section of the Gaming Control Act to create the live horse race gaming tax credit to offset the costs of live horse racing and to promote more live horse racing days in New Mexico. In FY15 through FY17, licensed racetracks may claim a tax credit for each day that a live horse race is conducted at the track during a fiscal year in the amount of:

- $12.5 thousand for a gaming operator that paid $10.0 million or less in gaming tax in the fiscal year prior to claiming the credit; and

- $7.5 thousand for a gaming operator that paid more than $10.0 million in gaming tax in the fiscal year prior to claiming the credit.

The bill caps aggregate amount of credits that may be approved in a fiscal year at $3.0 million. Any approved credit in excess of the cap, the available amount of tax credits is prorated among eligible taxpayers
Further, the bill caps the credit that may be claimed by a licensee at the lesser of one-twelfth of 75 percent of the gaming tax paid in the prior calendar year or 75 percent of the taxpayer's monthly gaming tax liability. Any additional credit that may be allowed may be claimed in the last month of the fiscal year, provided that the maximum credit amount is capped at 75 percent of the racetrack's gaming tax liability for the fiscal year.

The bill provides criteria for eligibility for the tax credit based on the number of live racing days conducted in a given fiscal year. To be eligible, a licensed racetrack must conduct at least one more day of live horse racing and at least one more quarter horse race in the current fiscal year than in the fiscal year prior to the fiscal year in which the credit is claimed. The racetrack may also claim the credit by conducting at least five more days of racing and at least five more quarter horse races than in the fiscal year in which the racetrack first claimed and had a credit approved.

If a racetrack claims a credit that is not approved, then the next fiscal year the racetrack must increase the number of racing days and the number of quarter horse races by one over the most recent fiscal year in which it first claimed the credit, or the fiscal year in which it last had a credit approved.

The bill requires the State Racing Commission (SRC) to certify the eligibility of a racetrack for the tax credit with a certificate of eligibility. The bill requires the Taxation and Revenue Department (TRD) to periodically audit the records of the live horse race gaming tax credit.

The effective date of this bill is July 1, 2014, and the provisions of the bill provide a sunset of the tax credit at the end of FY17.

FISCAL IMPLICATIONS

New Mexico currently has six horse racetrack licensees. The New Mexico State Fair licensee conducts exactly 17 live horse race days per year, and the remaining five licensees each conduct more than that number of live racing days per fiscal year. The SRC's website reports that the six licensees together will conduct a total of 288 race days in 2013.

Assuming the number of live racing days during the state fair is capped at 17 by its limited duration, the tax credit would only be available to the remaining five licensees. This analysis assumes each of the five licensees adds one day each in FY15 and subsequent fiscal years.

This bill may be counter to the LFC tax policy principle of adequacy, efficiency and equity. Due to the increasing cost of tax expenditures revenues may be insufficient to cover growing recurring appropriations.

Estimating the cost of tax expenditures is difficult. Confidentiality requirements surrounding certain taxpayer information create uncertainty, and analysts must frequently interpret third-party data sources. The statutory criteria for atax expenditure may be ambiguous, further complicating the initial cost estimate of the expenditure's fiscal impact. Once a tax expenditure has been approved, information constraints continue to create challenges in tracking the real costs (and benefits) of tax expenditures.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is met with the bill's requirement to report every three years to the interim Revenue Stabilization and Tax Policy Committee regarding the data compiled from the reports from taxpayers taking the deduction and other information to determine whether the deduction is meeting its purpose.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy**: Revenue should be adequate to fund needed government services.
2. **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity**: Different taxpayers should be treated fairly.
4. **Simplicity**: Collection should be simple and easily understood.
5. **Accountability**: Preferences should be easy to monitor and evaluate

PvM/svb:blm