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FISCAL IMPACT REPORT

SPONSOR Hernandez/Dixon LAST UPDATED 3/11/23
ORIGINAL DATE 2/20/23
SHORT TITLE Nonprofit Gaming Machine Payouts BILL NUMBER House Bill 309
ANALYST Anderson/Faubion

REVENUE* (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25	FY26	FY27		
No fiscal impact (see "Fiscal Implications")					Recurring	General Fund

Parenthesis () indicate revenue decreases

*Amounts reflect most recent version of this legislation.

Duplicates Senate Bill 143
Relates to House Bill 301

Sources of Information

LFC Files

Responses Received From
Gaming Control Board (GCB)

SUMMARY

Synopsis of House Bill 309

House Bill 309 amends Section 60-2E-28 NMSA 1978 to increase the maximum jackpot payout allowed at machines operated by nonprofit organization gaming operator licensees from \$4,000 to \$10 thousand.

This bill does not contain an effective date, and as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed.

FISCAL IMPLICATIONS

Gaming taxes are based on "net take" or net revenue of the gaming operator. Total net take from New Mexico nonprofit gaming operators was \$9.6 million in FY22. Total taxes paid by nonprofit gaming operators was \$950 thousand. Tax revenue is unlikely to change under this bill. Gaming operators can adjust a machine's payout as a percentage of the money put in during play. Section 60-2E-44 of the Gaming Control Act specifies

that each gaming machine licensed in the state must provide a payback value of at least 80 percent of the value wagered. Assuming gaming operators do not adjust their machines' overall payout rate, the net take would be unchanged under this bill. Total jackpots and frequency of wins may be reduced as a result of the higher jackpot limit, but the net-take from the machine should be unchanged.

If operators adjust their machine's payout in response to the higher jackpot, tax revenue may increase or decrease, depending on if the operators adjust the payout higher or lower. While an increased payout has the potential to attract more players, for nonprofit gaming organizations, the pool of potential players is limited to the organization's membership. A change in net take would result in a change in charitable and educational contributions made by these nonprofit organizations because they are statutorily set at 60 percent of net-take after taxes.

GCB provided the following:

Tax is based on net revenue (coin-in minus coin-out) and the pool of potential players is limited to the organization's membership. The potential is for tax revenue to decrease if the amount of play (coin-in) remains consistent and larger jackpots hit causing the payouts (coin-out) to increase which would reduce the net revenue.

SIGNIFICANT ISSUES

Nonprofit gaming locations are composed of American Legion Posts, Elk Lodges, six Fraternal Order of Eagles, seven Loyal Order of Moose, and eight Veterans of Foreign Wars Posts. Nonprofit clubs are typically staffed by both volunteer and paid members and constitute a relatively small part of the gaming market. However, revenues can be significant for the individual nonprofit's charitable and educational activities and can directly support its community. During FY22, licensed nonprofit gaming operators earned approximately \$1.8 million for charitable and educational purposes.

GCB notes the following:

Currently, there are 48 nonprofit gaming operator licensees in New Mexico. A small percentage of these, maybe 12 percent, would be financially able to sustain these jackpot limits. Additionally, regulation requires that jackpots be paid at the time they are won. Licensees are required to maintain funds on hand at 2.5 times the maximum payout on hand. This would require a significant increase in cash on hand at the locations that have the limit set on their machines. In locations where there are competing clubs in small rural communities this may work to actually put some nonprofits out of business.

ADMINISTRATIVE IMPLICATIONS

GCB said its audit division works closely with licensees who raise the highest possible jackpots limit to \$10 thousand and works to ensure compliance with Rule 15.1.8.19(A) of the New Mexico Administrative Code, which addresses minimum bankroll requirements.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 309 duplicates Senate Bill 143, which also amends Section 60-2E-28 NMSA 1978 to increase the maximum jackpot payout allowed at machines operated by nonprofit organization gaming operator licensees from \$4,000 to \$10 thousand.

House Bill 301 adds a 13 percent gaming tax on net take for gaming operator licensees located in a class A county and within a 60-mile radius of three or more tribal casinos. This is half of the current 26 percent rate for other gaming operator licensees that are not manufacturers, distributors, or nonprofits. The effective date for HB301 is July 1, 2023.

GA/al/ne/hg/rl