

Revised due to adoption of amendment and additional information.

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

| ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates) | | | | |
|---|-------------------|-----------|-------------------|-----------|
| | FY 2015-16 | | FY 2016-17 | |
| | EXPENDITURES | REVENUE | EXPENDITURES | REVENUE |
| GENERAL FUNDS | \$50,000 | See Below | \$50,000 | See Below |
| CASH FUNDS | | See Below | | See Below |
| FEDERAL FUNDS | | | | |
| OTHER FUNDS | | | | |
| TOTAL FUNDS | \$50,000 | See Below | \$50,000 | See Below |

Any Fiscal Notes received from state agencies and political subdivisions are attached following the Legislative Fiscal Analyst Estimate.

LB 70, as amended by AM118 and AM235, amends the Mechanical Amusement Device Act.

AM118 adds new language to the Act that imposes an additional occupation tax on mechanical amusement devices that meet the following criteria:

- a) Accept currency, coins, tokens, or other value in exchange for play;
- b) Awards a monetary prize or anything redeemable for a monetary prize;
- c) Is played by a player using a touch screen, computer mouse, touch pad, light pen, laser, or device of similar function by which a player competes against software running the device; and
- d) Has not been adjudicated by a court to not constitute a gambling device.

The burden of proving the device is not taxable is placed on the operator.

The amount of the tax is to be equal to ten percent of the gross revenue derived from the operation of the device. The Tax Commissioner is to collect the occupation tax in the same manner that the state sales tax is collected.

Gross revenue is defined as the total aggregate receipts received from the operation of any mechanical amusement device without any reduction for prizes, discounts, taxes, or expenses. It includes receipts from admission cost, any consideration necessary for participation and the value of any free tickets, games or plays.

AM235 provides that of the revenue collected, 97% is to be credited to the General Fund and 3% is to be credited to the Compulsive Gamblers Assistance Fund.

The bill now contains the emergency clause.

Because of the variables involved, (number of machines statewide, gross revenue per machine), that are unknown, we are unable to determine an accurate estimate of fiscal impact.

The Department of Revenue indicates the cost to implement the provisions of LB 70, as amended, will be approximately \$97,921 in FY2015-16 and \$10,000 in FY2016-17. This includes \$87,921 for one-time IT development costs paid to the Office of the CIO. It also includes \$10,000 each fiscal year for the services of an independent testing laboratory to resolve a tax protest and assuming one protest annually.

We disagree with the Department of Revenue's estimate of cost and believe the Department can absorb the cost associated with the IT development. We also disagree with the Department's estimate of costs necessary to resolve tax protests as a result of LB 70. We believe that cost will be \$50,000 per fiscal year based on five protests per fiscal year.

