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SENATE TAXATION COMMITTEE – February 2, 2022

Good morning chair and members of the committee, my name is Jessica McKeown and I am the Finance Officer for the City of Deadwood. I am here to testify in favor of SB99.

On November 8, 1988, over 64% of South Dakota voters approved Amendment B "authorizing limited card games and slot machines in the city of Deadwood provided that sixty percent of Deadwood voters approve the card games and slot machines and that the net proceeds of the games be devoted to the historic restoration and preservation of Deadwood." Obviously, Deadwood voters approved the measure as well.

Thirty years later, the Constitution of the State of South Dakota still states, "The entire net Municipal proceeds of such (gaming) shall be devoted to the Historic Restoration and Preservation of Deadwood."

South Dakota Codified Law (SDCL) defines the "Net municipal proceeds," as the amount remitted to the City of Deadwood by the South Dakota Commission on Gaming.

Further under SDCL, "The entire net municipal proceeds of gaming shall be devoted to the historic restoration and preservation of the city of Deadwood as provided in this chapter. The term, historic restoration and preservation, shall be interpreted liberally in scope and effect."

How are gaming revenues generated? It is a complex formula that has changed over the decades. It boils down to gaming taxes and license fees.

On page 2 in the Commission on Gaming's Annual Report for FY2021, the details of the complex formula on gaming revenues from Deadwood are defined under South Dakota Codified Law.

In 1989, a gaming tax of 8% on the gross proceeds was established under SDCL 42-7B-28. In 2009, under SDCL 42-7B-28.1 an additional 1% gaming tax was added which goes directly to the state general fund. This is not part of the formula in defining "Net Municipal Proceeds."

Under SDCL 42-7B-48 and its subsections, Forty percent (40%) of the gaming tax collected shall be transferred to the tourism promotion fund and ten percent (10%) of the gaming tax collected shall be paid to Lawrence County. Then you subtract the expenses of the commission for administration and operation including litigation and enforcement. Finally, all funds remaining constitute the net municipal proceeds for the City of Deadwood. Except for one hundred thousand dollars which shall be transferred to the State's historical preservation loan and grant fund.

This formula has been modified several times over the past 30 years but in 1995, there was an arbitrary establishment of a cap on the net municipal proceeds under SDCL 42-7B-48.1.

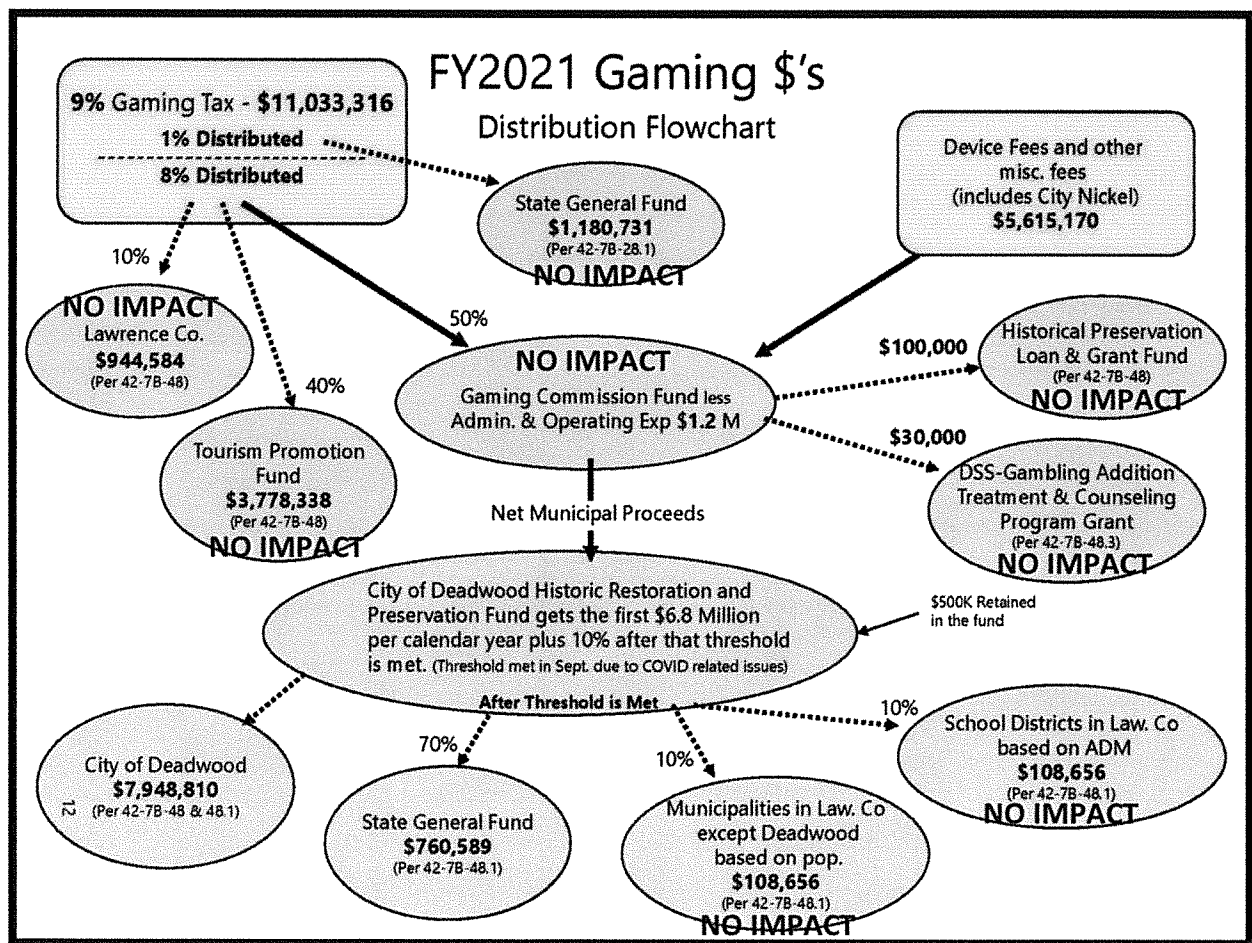
Disbursements from the Gaming Commission fund shall be as set forth until such time as the net municipal proceeds paid to the City of Deadwood equals six million eight hundred thousand dollars for each year. This is after payment of commission expenses and the one hundred thousand dollars to the State Historical Preservation Grant and Loan fund as well as under 42-7B-48.3 thirty thousand dollars each fiscal year from the Gaming Commission fund to the Department of Social Services to fund gaming addiction treatment and counseling programs in the state.

After the cap, which was established in 1995 and remains unchanged, all remaining funds are distributed as follows:

- Seventy percent to the state general fund;
- Ten percent to be distributed to municipalities in Lawrence County, except the City of Deadwood
- Ten percent to be distributed to school districts located in whole or in part, in Lawrence County;
- and Ten percent to the City of Deadwood for deposit in the historic restoration and preservation fund.

The flow chart on page 12 of the annual report details the complexity of the formula.

Senate Bill 99 revises the percentages regarding the proceeds of gaming revenues. SB99 would create a fair split of revenues between the state and Deadwood with no other impact to Lawrence County entities and the state agencies supported by gaming revenues. This would equate to just under \$326,000 decrease in FY2021.



Our friends from the state and other agencies will say they are keenly interested in maintaining the integrity of the State General Fund. We understand the concern but feel this is a fair way to keep the integrity of the fund intact while ensuring the constitutional amendment passed in 1988 is followed. Due to the formula changes, the state is now the primary recipient of gaming revenues that the voters approved for the historic restoration and preservation of Deadwood.

The formula has benefited our state and state agencies and we support the sharing of these revenues. We ask that the sharing to be fair and equitable. Over the last 10 years the state general fund and state agencies now receive more revenues than the City of Deadwood where the funds are generated by the gaming industry.

The challenge for Deadwood is the "Entire Net Proceeds" have changed and we are unable to keep up with the cost of inflation, visitor impacts and everyday efforts of a community of 1,200 people entertaining over 2,500,000 visitors annually. This equates to us hosting 2,083 visitors per year for every resident that lives in our historic city.

Senate Bill 99 provides a fair and equitable way to maintain state funding while providing Deadwood with a small increase in the "Net Municipal Proceeds" to continue to restore and preserve our National Historic Landmark and provide preservation funding across the state.

I respectfully request an affirmative vote for SB99. Thank you and I am available for any questions or comments.

Written testimony: Jessica McKeown, Finance Officer
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