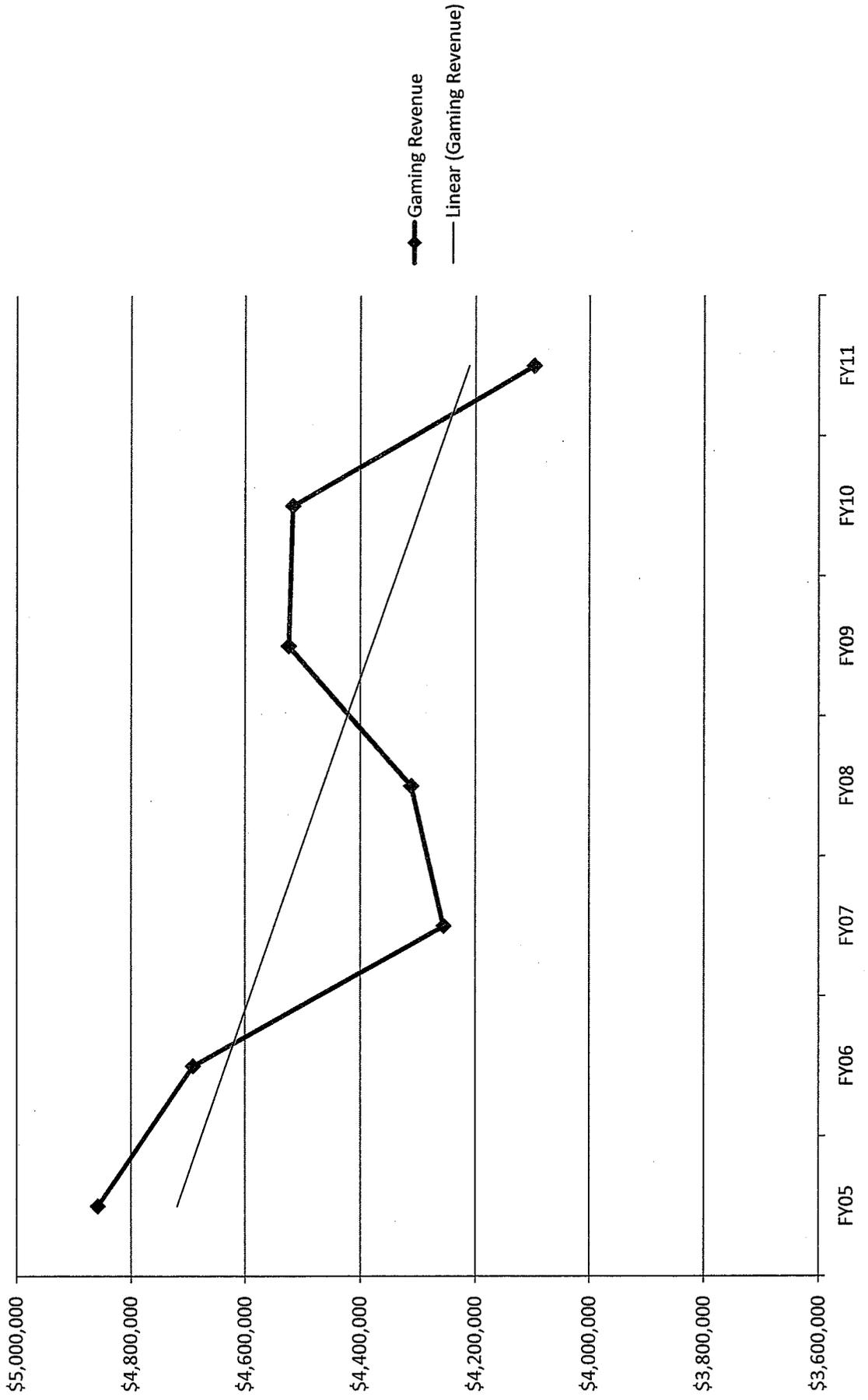


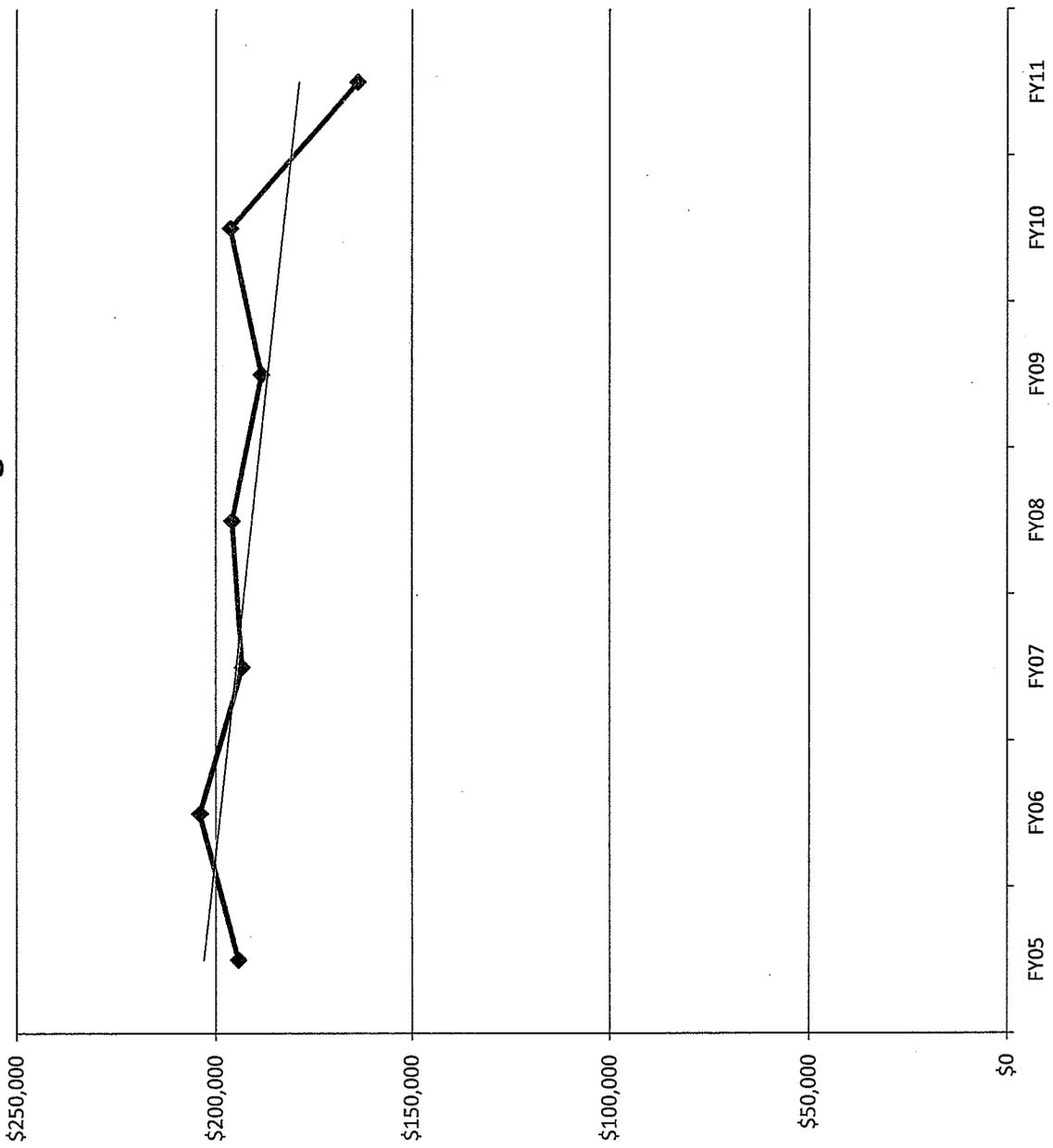
FINANCIAL TRENDS

VETERAN'S CLUBS

Veterans Gaming Revenue FY05 Through FY11

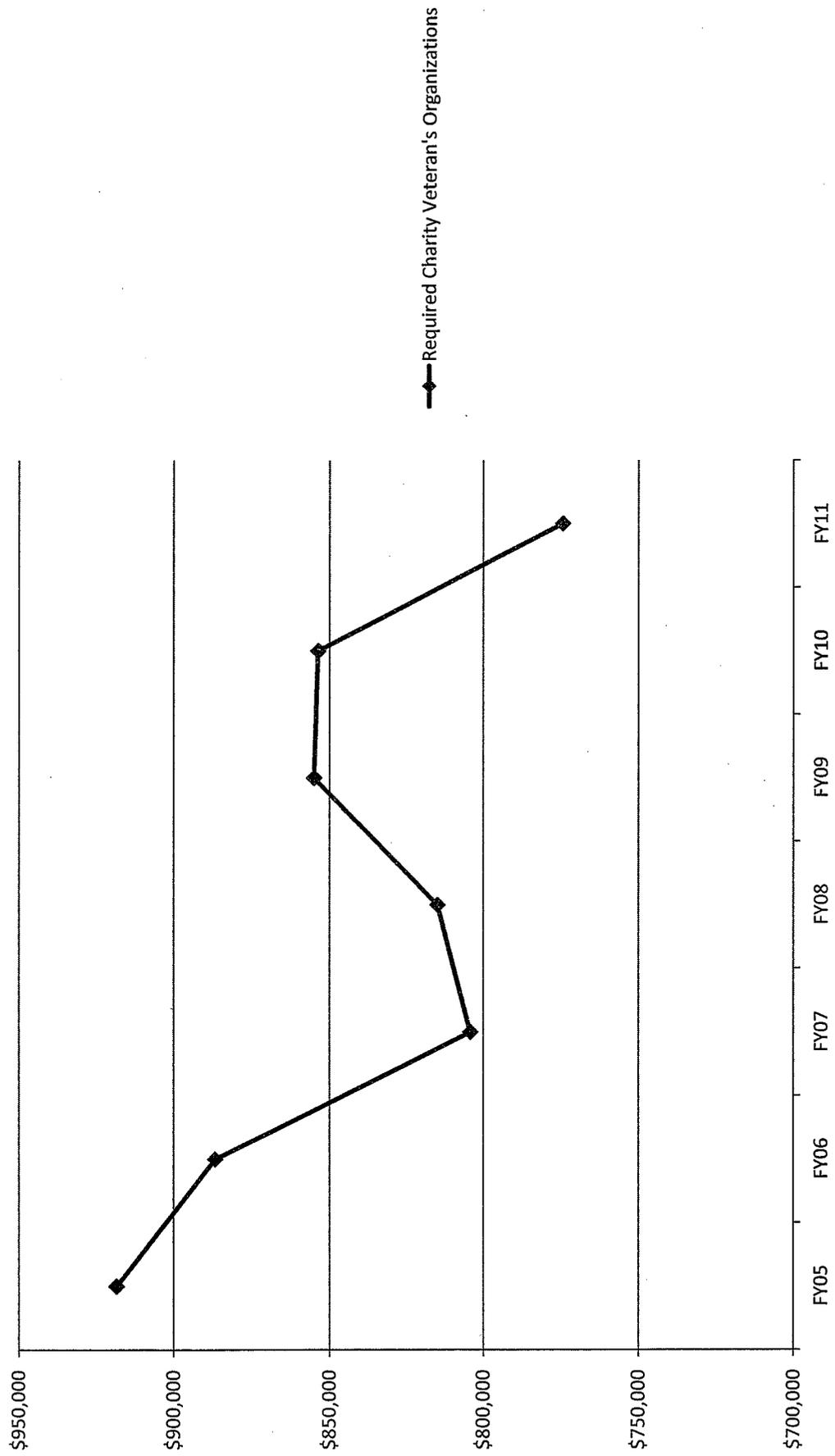


Average Revenue Per Veteran Licensee FY05 Through FY 11

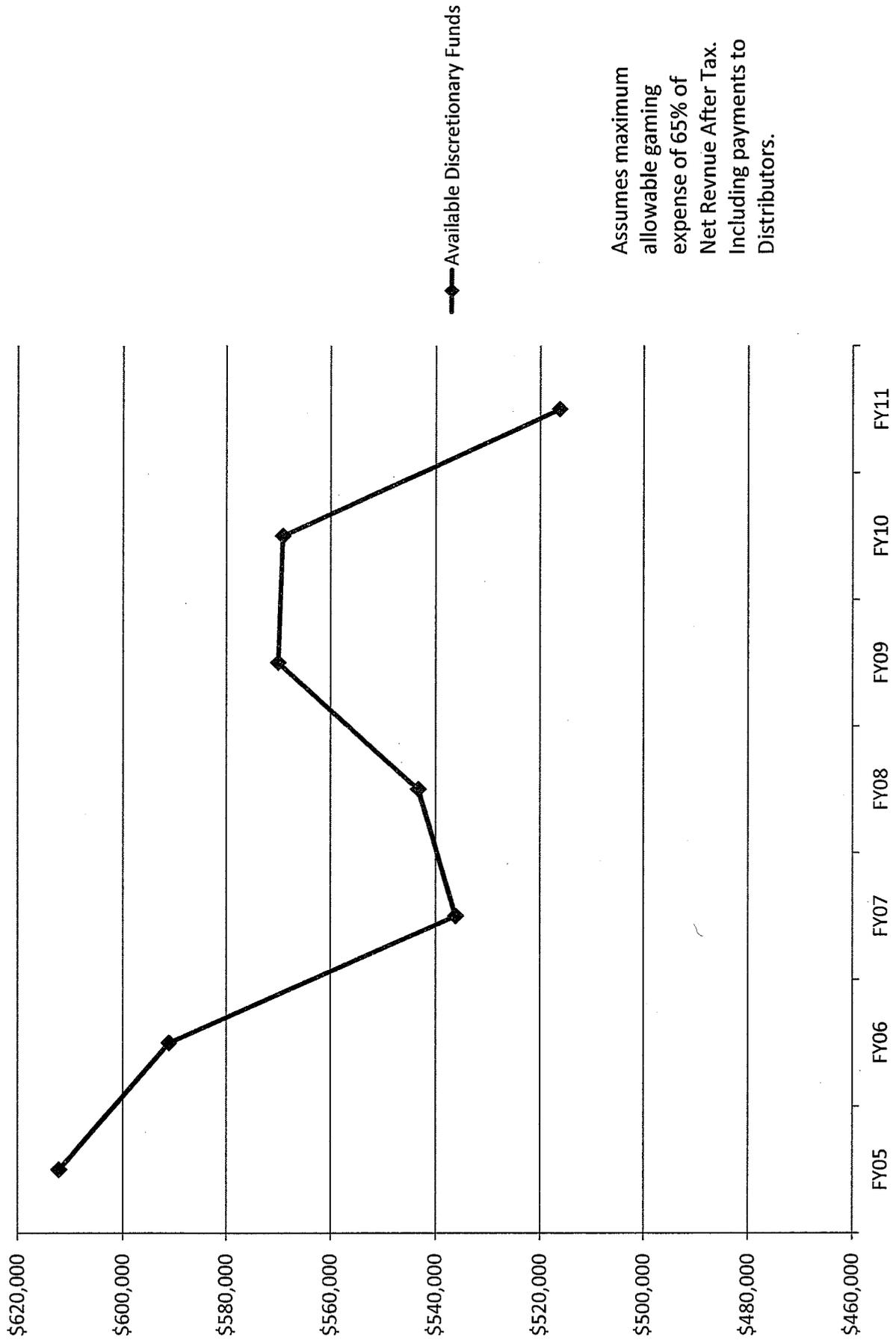


◆ Average Revenue Per Veteran Licensee
— Linear (Average Revenue Per Veteran Licensee)

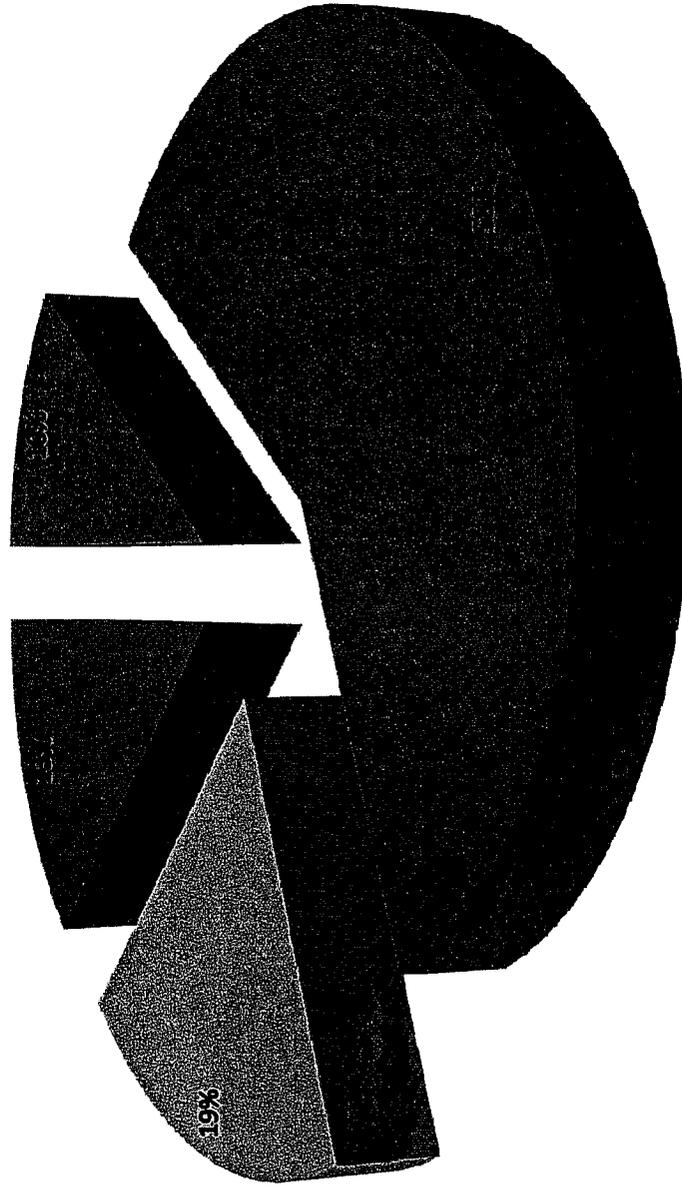
Required Charity Veteran's Organizations



Available Discretionary Funds



Distribution of Non-Profit Gaming Revenue



■ Tax

■ Lease and AGE

■ Charity and educational

■ Discretionary

CURRENT PERFORMANCE VERSUS ALLOWABLE GAMING EXPENSE (AGE)

	Under AGE	Over AGE	Equal AGE	Total
Total Organizations	12	8	3	23
Percent of Organizations	52.2%	34.8%	13.0%	100.00%
Avg difference	9.4%	-11.1%	0.0%	NA

CHARITY

STATUTE/RULES

60-2E-47. Gaming tax; imposition; administration.

A. An excise tax is imposed on the privilege of engaging in gaming activities in the state. This tax shall be known as the "gaming tax".

B. The gaming tax is an amount equal to ten percent of the gross receipts of manufacturer licensees from the sale, lease or other transfer of gaming devices in or into the state, except receipts of a manufacturer from the sale, lease or other transfer to a licensed distributor for subsequent sale or lease may be excluded from gross receipts; ten percent of the gross receipts of distributor licensees from the sale, lease or other transfer of gaming devices in or into the state; ten percent of the net take of a gaming operator licensee that is a nonprofit organization; and twenty-six percent of the net take of every other gaming operator licensee. For the purposes of this section, "gross receipts" means the total amount of money or the value of other consideration received from selling, leasing or otherwise transferring gaming devices.

C. The gaming tax imposed on a licensee is in lieu of all state and local gross receipts taxes on that portion of the licensee's gross receipts attributable to gaming activities.

D. The gaming tax is to be paid on or before the fifteenth day of the month following the month in which the taxable event occurs. The gaming tax shall be administered and collected by the taxation and revenue department in cooperation with the board. The provisions of the Tax Administration Act [7-1-1 NMSA 1978] apply to the collection and administration of the tax.

E. In addition to the gaming tax, a gaming operator licensee that is a racetrack shall pay twenty percent of its net take to purses to be distributed in accordance with rules adopted by the state racing commission. An amount not to exceed twenty percent of the interest earned on the balance of any fund consisting of money for purses distributed by racetrack gaming operator licensees pursuant to this subsection may be expended for the costs of administering the distributions. A racetrack gaming operator licensee shall spend no less than one-fourth percent of the net take of its gaming machines to fund or support programs for the treatment and assistance of compulsive gamblers.

F. A nonprofit gaming operator licensee shall distribute at least sixty percent of the balance of its net take, after payment of the gaming tax and any income taxes, for charitable or educational purposes.

History: Laws 1997, ch. 190, § 49; 1998, ch. 15, § 1; 1999, ch. 187, § 1; 2001, ch. 256, § 1; 2001, ch. 262, § 3; 2002, ch. 48, § 1; 2005, ch. 350, § 2.

The 1998 amendment, effective March 5, 1998, added the last sentence in Subsection B; added the first sentence in Subsection D; substituted "its" for "the" in the first sentence in Subsection E; and inserted "its" preceding "net" in Subsection F.

The 1999 amendment, effective June 18, 1999, substituted "rules" for "regulations" in the first sentence in Subsection E and "sixty percent" for "eighty-eight percent" in Subsection F.

The 2001 amendment, effective June 15, 2001, in Subsection B inserted "ten percent of the net take of a gaming operator licensee that is a nonprofit organization" and inserted "other" preceding "gaming operator licensee".

The 2002 amendment, effective March 4, 2002, inserted the present second sentence in Subsection E. Laws 2002, ch. 48, § 2 repealed Laws 2001, ch. 256, § 1, effective March 4, 2002.

The 2005 amendment, effective July 1, 2005, increases the tax rate on the net take of other gaming operator licensees in Subsection B from twenty-five percent to twenty-six percent.

15.1.10.32 USE OF GAMING RECEIPTS BY NONPROFIT OPERATOR LICENSEE:

A. A nonprofit operator licensee may utilize up to 65% of net take, after payment of the gaming tax and income taxes, to pay allowable expenses in reasonable amounts for conducting gaming activities on its licensed premises. If the nonprofit operator licensee has entered into a valid lease or other arrangement for furnishing gaming machines, the 65% maximum shall be distributed as follows:

(1) the maximum of 40% of net take after gaming taxes or no greater than the contract amount if less than 40% for payment to licensed distributors pursuant to a lease or other arrangement for furnishing a gaming machine; and

(2) for payment of other allowable gaming expenses, an amount equal to the difference between 65 % of net take less the amount paid to the distributor as described above.

B. The percentage set forth in this section constitutes the maximum amount that may be paid annually for allowable gaming expenses from net take. No other expenses related to or arising out of gaming activities shall be paid from net take or gaming revenues, including but not limited to supplies, fees for management and other services, and repairs to and maintenance of licensed premises and gaming devices.

C. A nonprofit operator licensee shall not under any circumstances pay to any distributor licensee the percentage payment allowed in this section, until the required charitable and educational deposits have been made, gaming tax and other applicable taxes have been paid and all taxes and fees are current.

D. The nonprofit operator licensee shall distribute at least 60% of the balance of net take to charitable or educational purposes, which purposes do not include gaming expenses. All funds required to be spent for charitable or educational purposes must be expended each year within 120 days after close of the nonprofit operator licensee's fiscal year end. The maximum 40% of net take, after gaming taxes, remaining after such distribution may be used for other expenses at the discretion of the nonprofit operator licensee, provided none of those expenses shall be incurred to compensate a licensed distributor for the furnishing of gaming machines.

E. Distributions for charitable purposes shall be made solely for benevolent, social welfare, philanthropic, humane, public health, civic or other objectives or activities to benefit the welfare of the public at large or an indefinite number of persons.

(1) Charitable distributions shall not be used to fund operating or capital expenses of any nonprofit gaming operator or any affiliated organization of a nonprofit gaming operator.

(2) A charitable distribution shall be made to an organization outside the state of New Mexico only if the organization is either a charitable organization under Section 501(c)(3) of the Internal Revenue Code or the organization is the nonprofit gaming operator's national organization and the distribution is used for charitable purposes.

F. Educational distributions shall be expended solely to benefit an educational institution or organization or to provide financial assistance to individuals in their pursuit of educational goals.

G. The executive director of the board shall disallow any distribution for charitable and educational purposes not in compliance with this rule. If a charitable or educational distribution is disallowed by the executive director, the nonprofit gaming operator may appeal that decision to the board pursuant to Section 60-2E-59 of the act.

[12/31/98; 15.1.10.32 NMAC - Rn & A, 15 NMAC 1.10.32, 3/31/00; A, 7/31/02; A, 5/14/04; A, 2/28/05; A, 5/15/07; A, 12/15/10]

General

As a general rule, checks from the Charity Account should not be made payable to individuals. The non-profit shall keep detailed documentation of every charitable payment, including payee, check number, amount, purpose, request, approval and documents to support the actual disbursement, in accordance with the non-profit's internal controls. All checks drawn on the charitable account require two signatures. In no case shall one of the signatures also be the payee, or individual who benefits from the contribution. Contributions to Auxiliary organizations shall be supported by receipts indicating funds were used for charitable purpose. Front and back check copies shall be retained for all Charity payments. While checks payable to individuals are discouraged, a non-profit may choose to make payments to, or on behalf of, individuals. In such circumstances, the club licensee will comply with all federal and state reporting requirements for cumulative annual disbursements to individuals. IRS requirements relative to reporting of miscellaneous income require all charity amounts exceeding \$ 600 during any calendar year to be reported on form 1099. Also, payments to individuals have a higher potential for abuse fraud risk than do payments to charitable organizations.

With prior approval of the board, a non-profit may establish a long term charity account that is not subject to the rule regarding disbursements being made within 120 days of fiscal year end. The board will establish a policy regarding these accounts.

Variance requests:

Variances from these guidelines may be requested for any charitable purpose to which the non-profit wishes to donate. Variances shall be submitted in writing to the Director of Audit & Compliance with a copy to the assigned auditor. Variance requests should include: the amount to be donated, the specific organization or cause, and an explanation as to why the variance is being requested. Variance requests will be reviewed and acted upon within 2 business days . Variances that are not approved by the Audit & Compliance director will be referred to the Executive Director for review and consideration. Appeals to the board shall be requested in writing and shall not be automatic. Items requiring board approval will be addressed at the next regularly scheduled board meeting.

Factors considered in granting a variance include:

- Does the donation benefit an "indefinite number of persons"?
- Is the amount reasonable given the amount of charity money generated by the non-profit?
- What is the impact on the local community?
- For individual hardships, what is the nature and extent of the hardship?
- Is this an "emergency request"?
- What is the non-profit's compliance record in general, and in charity?
- Does the non-profit have formal procedures for reviewing and approving charity disbursements?
- Is the request for capital funds for the licensee or their affiliates?
- Does the request contemplate holding charity funds more than 120 days beyond year end?
- Are there any settlement agreements in place between the licensee and the NMGCGB?
- What exceptions were identified during the last audit of the licensee?
- Has licensee exceeded their allowable gaming expenses in recent periods?

Process and Procedures

Each non-profit Licensee shall develop written procedures for the request, approval and documentation of Charity Disbursements. The procedures shall include, but not be limited to, the following:

- Licensee shall establish a Charity Committee (this role can be performed by existing licensee management committees or boards).
- Gaming employees shall not be the sole decision makers with respect to Charity disbursements.
- Written requests for charitable disbursements shall be required and maintained.
- Documents supporting the request (PNM Bill copies, eviction notices, etc.) shall be required and maintained.
- Written documentation of disbursement approval by the Licensee's Charity Committee, Board or management committee shall be required and maintained.
- Checks drawn on the Charity Account shall not be made payable to "Cash".
- All records related to the approval and disbursement of Charity funds shall be maintained and made available to NMGCB representatives on request.
- Questions or clarifications related to any Charity Disbursement should be directed, in writing, to the NMGCB Director of Audit & Compliance. Answers will be provided in writing within 2 business days of receipt of the question.
- Pursuant to Rule 15 F. 10.32 (G), disallowances of any and all Charity Disbursements may be appealed to the Board by Licensee.

Non-Charity Expenditures

In order to provide Licensee's with guidance relative to appropriate use of Charity funds, the following ~~five~~ three lists include disbursements that will not be allowed under any circumstances (List A), disbursements that require NMGCB prior approval generally not allowed but may be allowed in certain circumstances (List B) and disbursements that clearly meet the Charity standards (List C), Educational donations (List D). Licensees should be particularly vigilant in scrutinizing requests like those contained in List B below. Lastly, "Exceptions for Veterans" (List D E) relates specifically to payments to Veterans made by Veterans organizations.

List A - Charity Funds disallowed under any circumstances

- Gaming operating expenses of any kind.
- Awards or gifts to members commemorating membership or other events.
- Payments to building or repair funds related to Licensee's premises.
- Direct payments for building and repairs of Licensee premises unless used exclusively for charitable purposes.
- Purchase of equipment for general use (e.g. microphones, PA systems).
- Scholarships that benefit only members and their families
- Donations to political candidates and political parties.

- Donations to organizations whose primary purpose is to influence public policy.

List B – Items that are Generally Not Allowed (Prior NMGCB approval is recommended)

- ~~Donations of any kind to Gaming Employees~~
- Donations of Hall rental for weddings, other non-charitable events or to for profit groups unless the event is for charitable purposes.
- Payments of Mortgages for individual members.
- Car payments for individual members.
- Payments of rent for individuals.
- Travel expenses not related directly to a charitable cause.
- Assistance to adult (over 21 years old) individuals or teams engaged in sports, beauty pageants or similar “non-charitable pursuits”.
- Sponsorship of meetings and conventions.
- Sponsorship of adult (over 21 years old) amateur sports ~~tournaments~~ events, unless the sports event is a charitable event.

~~• Payments made to utility companies’ on behalf of needy members individuals. Utility payment programs shall be available to members and non-members. Licensee shall make good faith efforts to publicize the availability of funds to assist with utilities to the community at large.~~

- Contributions to Auxiliaries that are not used directly and entirely for charitable purposes.
- Sponsorship of non-charitable activities such as parades, air shows and the like.

~~• In the event that a non-profit club chooses to make payments to, or on behalf of, individuals, the club will comply with all federal and state reporting requirements for cumulative annual disbursements to individuals.~~

NOTE: This section moved to the “General” section of the Guidelines.

List C - Clearly allowable Charity Donations

- Contributions to Charitable organizations qualified under IRS code 501c (3). ~~other than those aimed at changing public policy.~~
- Donations made for medical necessities involving members, the general public and their families.
- Donations to qualified youth groups like the boy or girl scouts.
- Donations to, and sponsorship, of youth sports teams and leagues.
- Donations to disaster specific funds (e.g., funds for fire).
- Scholarships available to the General Public
- Bank trust accounts established to provide assistance to a specific need or cause.
- Contributions in support of compulsive gambling programs.

List D Allowable Educational Contributions

- Scholarships available to the general public.
- Scholarships and/or assistance in attending trade or vocational school or similar adult training.
- Checks may be made payable to student or school, or jointly to the student and the school.
- Checks payable to students require independent documentation indicating confirming that the student is attending school.

- Donations to particular scholarship fund.
- General donations to schools serving the community.

List D E - Exceptions for Veterans Organizations

A non-profit Veteran's club or post is permitted certain latitude in contributions which other non-profits are not allowed. Specifically, assistance paid to individual Veterans who are in need is identified in the Tax Code as a charitable purpose for Veterans organizations. In recognition of the special class of citizens who have served our country in the military, the Board believes that contributions to individual veterans who are in need should generally be allowed. In an effort to ensure that overall charitable purposes in the community are not overlooked, the Board will impose certain guidelines on these contributions to individuals. The reasons for our caution with respect to payments to individuals are related to IRS reporting requirements and potential abuses that we have seen in the past. If a donation that benefits an individual is being made, it is preferable that checks be made payable to the Doctor, hospital, school or whatever third party needs to be paid to accomplish the charitable purpose. Documentation supporting all assistance provided to individual veterans shall include a copy of the veteran's retired military ID or DD214 to document eligibility as a veteran.

Contributions to veterans are to be based on need. Veteran's organizations shall develop written procedures to ensure that contributions are based on need and that assessment and determination of need is applied consistently and equitably. Documentation relative to the determination of need shall be maintained and made available for inspection by the Board and its agents. These contributions are exclusively for the benefit of the veteran.

- Organizations making payments to, or on behalf of, individual veterans will comply with all Federal and state reporting requirements for cumulative annual disbursements to individuals.
- Direct monetary gifts to individual veterans shall not exceed \$ 500.00 per month. ~~No single contribution to individual veterans shall exceed \$ 500.00.~~ Payments to third parties benefitting individual veterans shall not exceed \$ 500.00 per month. ~~No Veteran shall receive more that \$ 500 per month in cash contributions~~
- Recurring payments to individual veterans shall be approved for a specific time period and shall not be open ended.

CHARITY GUIDELINES

General

As a general rule, checks from the Charity Account should not be made payable to individuals. The non-profit shall keep detailed documentation of every charitable payment, including payee, check number, amount, purpose, request, and approval in accordance with the non-profit's internal controls. All checks drawn on the charitable account require two signatures. In no case shall one of the signatures also be the payee, or individual who benefits from the contribution. Front and back check copies shall be retained for all Charity payments.

Process and Procedures

Each non-profit Licensee shall develop written procedures for the request, approval and documentation of Charity Disbursements. The procedures shall include, but not be limited to, the following:

- Licensee shall establish a Charity Committee (this role can be performed by existing licensee management committees or boards)
- Gaming employees shall not be the sole decision makers with respect to Charity disbursements.
- Written requests for charitable disbursements shall be required and maintained.
- Documents supporting the request (PNM Bill copies, eviction notices, etc.) shall be required and maintained.
- Written documentation of disbursement approval by the Licensee's Charity Committee, Board or management committee shall be required and maintained.
- Checks drawn on the Charity Account shall not be made payable to "Cash".
- All records related to the approval and disbursement of Charity funds shall be maintained and made available to NMGCB representatives on request.
- Questions or clarifications related to any Charity Disbursement should be directed, in writing, to the NMGCB Director of Audit & Compliance. Answers will be provided in writing within 2 business days of receipt of the question.
- Pursuant to Rule 15.1.10.32 (G), disallowances of any and all Charity Disbursements may be appealed to the Board by Licensee.

Non-Charity Expenditures

In order to provide Licensee's with guidance relative to appropriate use of Charity funds, the following three lists include disbursements that will not be allowed under any circumstances (List A), disbursements that are **generally** not allowed but may be allowed in certain circumstances (List B) and disbursements that clearly meet the Charity standards (List C). Licensees should be particularly vigilant in scrutinizing requests like those contained in List B below. Lastly, "Exceptions for Veterans" (List D) relates specifically to payments to Veterans made by Veterans organizations.

List A - Charity Funds disallowed under any circumstances

- Gaming operating expenses of any kind
- Awards or gifts to members commemorating membership or other events
- Payments to building or repair funds related to Licensee's premises
- Direct payments for building and repairs of Licensee premises

CHARITY GUIDELINES

- Purchase of equipment for general use (e.g. microphones, PA systems)
- Scholarships that benefit only members and their families
- Donations to political candidates and political parties
- Donations to organizations whose primary purpose is to influence public policy

List B – Items that are Generally Not Allowed

- Donations of any kind to Gaming Employees
- Donations of Hall rental for weddings, other non-charitable events or to for profit groups unless the event is for charitable purposes
- Payments of Mortgages for individual members
- Payments of rent for individuals
- Travel expenses not related directly to a charitable cause
- Assistance to adult (over 21 years old) individuals or teams engaged in sports, beauty pageants or similar “non-charitable pursuits”
- Sponsorship of meetings and conventions
- Sponsorship of adult (over 21 years old) amateur sports tournaments
- Payments made to utility companies’ on behalf of members
- Contributions to Auxiliaries that are not used **directly** and **entirely** for charitable purposes
- Sponsorship of non-charitable activities such as parades, air shows and the like.
- In the event that a non-profit club chooses to make payments to, or on behalf of, individuals, the club will comply with all federal and state reporting requirements for cumulative annual disbursements to individuals.

List C - Clearly allowable Charity Donations

- Contributions to Charitable organizations qualified under IRS code 501c (3), other than those aimed at changing public policy.
- Donations made for medical necessities involving members, the general public and their families
- Donations to qualified youth groups like the boy or girl scouts
- Donations to, and sponsorship, of youth sports teams and leagues
- Donations to disaster specific funds (funds for fire)
- Scholarships available to the General Public

List D - Exceptions for Veterans Organizations

A non-profit Veteran’s club or post is permitted certain latitude in contributions which other non-profits are not allowed. Specifically, assistance paid to individual Veterans who are in need is identified in the Tax Code as a charitable purpose for Veterans organizations. In recognition of the special class of citizens who have served our country in the military, the Board believes that contributions to individual veterans who are in need should generally be allowed. In an effort to ensure that overall charitable purposes in the community are not overlooked, the Board will impose certain guidelines on these contributions to individuals. If a donation that benefits an individual is being made, it is preferable that checks be made payable to the Doctor, Hospital, school or whatever third party needs to be paid to accomplish the charitable purpose.

CHARITY GUIDELINES

- Contributions to veterans are to be based on need.
- Veteran's organizations shall develop written procedures to ensure that contributions are based on need and that assessment and determination of need is applied consistently and equitably.
- Documentation relative to the determination of need shall be maintained and made available for inspection by the Board and its agents.
- These contributions are exclusively for the benefit of the veteran.
- Organizations making payments to, or on behalf of, individual veterans will comply with all Federal and state reporting requirements for cumulative annual disbursements to individuals.
- No single contribution to individual veterans shall exceed \$ 500.00
- No Veteran shall receive more that \$ 500 per month in contributions
- Recurring payments to individual veterans shall be approved for a specific time period and shall not be open ended.

Issues mutually agreed at July 8, 2011

1. TRAINING

<u>Issue</u>	<u>Responsibility</u>
Training on VLTs	NMGCB
Training on types and uses of promotions	VFNP
Cash Management training	VFNP
Basic Internal Control training	VFNP
Training in Financial statement analysis and review	VFNP
House rule training	VFNP
Fraud Awareness Training	VFNP

2. CHARITY

Parties agreed that the Charity guidelines and rules related To charity would be reviewed and revised as necessary. Particular attention will be paid to issues involving personal/family hardship, writing checks to individuals, donations to club or affiliated organizations, adult sports and restrictions on charity to gaming employees. NMGCB will provide VFNP with staff recommendations regarding these particular items.

NMGCB

3. ALLOWABLE GAMING EXPENSES

VFNP has requested that NMGCB review the items permitted as allowable gaming expenses. Parties have agreed that business training and gaming training would be included in allowable gaming expense. NMGCB pointed out that the higher the allowable gaming expense the lower the club's discretionary amount will be reduced. NMGCB committed to expand this list. We will provide the expanded list to VFNP prior to board consideration of these matters.

NMGCB

SPECIFIC RULE AND MiC ISSUES

15.1.8.18.b.2 States that the board, under certain conditions may require licensees to deposit their entire drop. VFNP

NMGCB

Issues mutually agreed at July 8, 2011

wants language added to this rule to address how and when these sanctions can be removed. Staff did not disagree in principle, however, the removal of this condition is a matter of judgement and it would be very difficult to reduce this to writing. NMGCB will evaluate this request and make a recommendation to the board.

15.1.8.18.B.4 The VFNP questions the need for a charity bank account and objects to the fact that licensees must keep a "reserve" balance in the tax account. NMGCB believes that this approach ensures that cash is available to pay gaming taxes when due. We believe that the tax account is necessary based on past experience. To board

15.1.8.19.A.1 Minimum bankroll requirements. VFNP believed that the NMGCB requires a minimum bankroll of 2.5 times the highest possible Jackpot. NMGCB clarified that the 2.5 was a suggestion and that the only Requirement is that clubs have cash on hand equal to their largest jackpot Amount. Closed

15.1.10.32 Discusses the use of gaming receipts. VFNP believed that clubs Were not retaining savings associated with better lease rates negotiated with distributors. NMGCB explained that the clubs were retaining these amounts. VFNP understood. Closed

15.1.10.32.C Order of payment. The VFNP would like the clubs to be allowed Make required charity deposits last, not first. This is clearly a board matter. To Board