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FISCAL IMPACT REPORT

LAST UPDATED _____
ORIGINAL DATE 2/21/23

SPONSOR Maestas

BILL

SHORT TITLE Gaming Licensee Free or Reduced Food **NUMBER** Senate Bill 293

ANALYST Graeser

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25	FY26	FY27		
	Indeterminate positive				Recurring	General Fund (gaming tax)
	Indeterminate positive				Recurring	General Fund (gross receipts tax)
	Indeterminate positive				Recurring	Local Governments (gross receipts tax)

Parenthesis () indicate revenue decreases.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
No fiscal impact	No fiscal impact	No fiscal impact	No fiscal impact	Recurring	GCB

Parenthesis () indicate expenditure decreases.

Sources of Information

LFC Files

Responses Received From

Gaming Control Board (GCB)

SUMMARY

Synopsis of Senate Bill 293

Senate Bill 293 would allow gaming licensees (racinos) to offer food or other products or services for free or at a discounted price. Serving liquor would continue to be prohibited. 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

The tax on racino gaming operators is 26 percent of “net take.” Net take is basically total cash received from patrons for playing a game less the total of all cash paid out as losses to winning patrons.

An increase in operating expenses, such as providing food and lodging or other freebies, does not affect the tax base for the gaming tax. However, the exemption from gross receipts tax (60-2E-47 NMSA 1978) is limited: “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*.” (Emphasis added.)

To the extent that offering comps of food or lodging stimulates more gaming activity, then the gaming tax will increase. Any amounts collected for food sold at a discount will be subject to the gross receipts tax. Food or lodging offered for free does not create gross receipts tax obligations.

Food sold or given away at a gaming venue would not be deductible pursuant to 7-9-92 NMSA 1978.

Neither impact is estimable.

SIGNIFICANT ISSUES

Apparently, the intent of SB293 is to allow New Mexico racinos to offer “comps” to encourage patrons to stay longer and engage in more gaming. Las Vegas casinos have offered “comps” for many years. GCB says, “‘Comps’ are free rewards given to casino players. The more you gamble, the better the rewards.”

New Mexico’s racinos have been prohibited from offering comps, particularly liquor. This may have been an accommodation to the anti-gambling lobby in 1997 when the law was first enacted. Another accommodation to that lobby is the requirement that racinos spend at least ¼ percent (0.0025) of net take of its gaming machines to fund or support programs for the treatment and assistance of compulsive gamblers.

ADMINISTRATIVE IMPLICATIONS

GCB reports no administrative change in resources devoted to regulation of the industry.

LG/hg/al