

**BILL ANALYSIS AND FISCAL IMPACT REPORT**  
**Taxation and Revenue Department**

**February 27, 2025**

**Bill:** SB-393

**Sponsor:** Senators Nicholas A. Paul and Pete Campos, and Representative Harlan Vincent

**Short Title:** Gaming Tax Exemption in Disaster Area

**Description:** This bill provides an exemption from gaming excise tax, prior to January 1, 2029, for a gaming operator licensee operating in an area declared in June 2024 as a disaster area by the governor due to a wildfire.

**Effective Date:** Emergency clause; effective immediately upon signing by the Governor. The effective date of the bill is the first day of the month following the day the act takes effect.

**Taxation and Revenue Department Analyst:** Sara Grubbs

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2025	FY2026	FY2027	FY2028	FY2029		
(Up to \$400)	(Up to \$1,600)	(Up to \$1,600)	(Up to \$1,600)	(Up to \$1,600)	R	General Fund – Gaming Excise Tax

\* In thousands of dollars. Parentheses ( ) indicate a revenue loss. \*\* Recurring (R) or Non-Recurring (NR).

**Methodology for Estimated Revenue Impact:** This bill provides tax relief for gaming operator licensees impacted by wildfire disasters in June 2024, when areas in Lincoln County impacted by the South Fork and Salt Fires were declared a natural disaster<sup>1</sup>. The All-American Ruidoso Downs is the only gaming operator licensee deemed eligible for this exemption. Tax & Rev assumes that one quarter of FY2025 may be exempted under the emergency clause. Tax & Rev assumes a range up to \$1.6 million per year impact for FY2026 through FY2029. In FY2024, Ruidoso Downs was at approximately 70% of FY2023 net receipts. Tax & Rev cannot determine when or if Ruidoso Downs will resume at the level prior to the impact from the South Fork and Salt fires or if revenue will grow in the future. Therefore, Tax & Rev used the 2022 and 2023 average tax liability for the upper end of the range. The lower end of the range is representative of the fact that it is unclear if the Ruidoso Downs will be at full operation in the coming years.

**Policy Issues:** New Mexico has seen how the frequency and costs of natural disasters has increased recently. These disasters include droughts, severe storms, wildfires, floods in recently burned areas, and even a tropical cyclone<sup>2</sup>. In 2024, several wildfires cause damage to homes, vehicles, businesses, agriculture and other infrastructure in New Mexico at an estimated cost of over \$1.8 billion. The most impactful wildfires in 2024 were the South Fork and Salt Fires that began on June 17, 2024 near Ruidoso. They spread rapidly due to strong winds and destroyed over 1,400 structures. The Federal Emergency Management Agency (FEMA) has identified 6 Counties in New Mexico that face a relatively high wildfire risk: Colfax, Santa Fe, Lincoln, Otero, Roosevelt, and Lea<sup>3</sup>.

Providing tax relief to those affected businesses might help them weather difficult economic times and

<sup>1</sup> <https://www.governor.state.nm.us/2024/06/20/president-biden-approves-major-disaster-declaration-request-for-new-mexico/>

<sup>2</sup> <https://www.ncei.noaa.gov/access/billions/state-summary/NM>

<sup>3</sup> <https://hazards.fema.gov/nri/map>

make New Mexico’s wildfire-prone areas more resilient. However, the bill creates inequity between gaming businesses outside of the disaster area such as the Mescalero Apache’s Inn of the Mountain Gods Resort and Casino which is subject to the Indian Gaming Compact and not to the Gaming Tax and for non-gaming businesses inside the disaster area that are not afforded an exemption under other tax programs. In addition, the exemption extends for five years adding another level of inequity between other businesses in the area subject to other taxes while they recover and remain in business.

While tax incentives can support specific industries or promote desired social and economic behaviors, the growing number of such incentives complicate the tax code. Introducing more tax incentives has two main consequences: (1) it creates special treatment and exceptions within the code, leading to increased tax expenditures and a narrower tax base, which negatively impacts the general fund; and (2) it imposes a heavier compliance burden on both taxpayers and Tax & Rev. Increasing complexity and exceptions in the tax code is generally not in line with sound tax policy.

**Technical Issues:** None.

**Other Issues:** None.

**Administrative & Compliance Impact:** Tax & Rev will update forms, instructions and publications and make information system changes.

Tax & Rev will work with the Gaming Control Board (GCB) to ensure the GCB provides Tax & Rev with sufficient data to accommodate the processing of this new gaming excise tax exemption. This data is necessary to ensure Tax & Rev is able to process the exemption smoothly, rather than assessing the tax liability and then following the tax abatement process.

Implementing this bill will have a moderate impact on Tax & Rev’s Information Technology Division (ITD) requiring approximately 480 hours or 3 months at a cost of \$31,987. Tax & Rev currently receives monthly gaming operator tax returns electronically from the GCB. This administrative impact estimate includes updating a data exchange specification between Tax & Rev and the GCB to include a new gaming tax exemption field. This will require coordination with the GCB.

Considering the effort to implement this bill and the effective date of the Emergency clause, a more feasible effective date is July 1, 2025.

Estimated Additional Operating Budget Impact*				R or NR**	Fund(s) or Agency Affected
FY2025	FY2026	FY2027	3 Year Total Cost		
\$31.9	--	--	\$31.9	NR	ITD – Staff workload

\* In thousands of dollars. Parentheses ( ) indicate a cost saving. \*\* Recurring (R) or Non-Recurring (NR).