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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/25/08

SPONSOR Grubestic LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Fees for Sexually Oriented Business Patrons SB 64

ANALYST C. Sanchez

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY08	FY09	FY10		
Indeterminable	Indeterminable	Indeterminable	Recurring	Sexual crimes prosecution and treatment fund

(Parenthesis ( ) Indicate Revenue Decreases)

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY08	FY09	FY10	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>	\$100	\$100	\$100	\$300	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Regulation and Licensing Department (RLD)

Alcohol and Gaming Division (AGD)

### SUMMARY

#### Synopsis of Bill

SB 64 would impose a fee of \$5.00 per person for patrons of sexually oriented businesses. The bill requires that sexually oriented businesses maintain records of the number of patrons entering their business daily, in a manner prescribed by the director, and requires that businesses make those records available for inspection and audit on request by the director. Fees would be remitted to the state and would be distributed to the sexual crimes prosecution and treatment fund.

**FISCAL IMPLICATIONS**

According to RLD, to administer SB 64, the Alcohol and Gaming Division would require at least two new FTE's (auditors) to ensure compliance with the remittance of required fees. Operating costs are indeterminate but would include mileage (or a vehicle) for two FTE's, per diem for two FTE's, and equipment costs for laptop computers with accounting software.

Revenue cannot be determined as the number of patrons cannot be estimated, but any monies generated would go to the sexual crimes prosecution and treatment fund, not to the general fund, and not to support the administration of the bill.

**SIGNIFICANT ISSUES**

The bill through its definitions of “nude” and “sexually oriented businesses” infers that the type of dancing that will be allowed in liquor licensed establishments will contradict the prohibition on “indecent dancing” [intentionally exposing intimate parts to public while dancing or performing and defines intimate parts] in §30-9-14.1. The bill further contradicts the provision of §30-9-14.1 that provides a licensee, transferee or lessee who allows indecent dancing is guilty of a petty misdemeanor but also that the liquor license may be revoked or suspended.

**ADMINISTRATIVE IMPLICATIONS**

According to the Alcohol and Gaming Division, to enforce the provisions of this bill, AGD would require at least two new full time employees to audit sexually oriented business to ensure compliance with reporting requirements and remittance of fees.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

SB 64 conflicts with NMSA 1978 Section 30-9-14.1 Indecent Dancing. §30-9-14.1 prohibits the intentional exposing of genitalia or “intimate parts” while dancing or performing in a licensed liquor establishment.

**OTHER SUBSTANTIVE ISSUES**

The bill may be challenged on First Amendment grounds.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo. Fees will not be collected for the sexual crimes prosecutions and treatment fund.

CS/bb