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## FISCAL IMPACT REPORT

SPONSOR Ingle ORIGINAL DATE 2/2/15  
 LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Live Horse Racing Gaming Tax Credit SB 240

ANALYST Elkins

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		
	(\$2,187.5)	(\$2,940.0)	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Duplicates HB200

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Gaming Control Board (GCB)

State Racing Commission (SRC)

#### Response Not Received From

Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 240 creates a new section of the Gaming Control Act to create the live horse race gaming tax credit to offset the costs of live horse racing and to promote more live horse racing days in New Mexico. Licensed racetracks may claim a tax credit for each day that a live horse race is conducted at the track during a fiscal year in the amount of:

- \$12.5 thousand for a gaming operator that paid \$10 million or less in gaming tax in the fiscal year prior to claiming the credit; and
- \$7.5 thousand for a gaming operator that paid more than \$10 million in gaming tax in the fiscal year prior to claiming the credit.

The bill caps aggregate amount of credits that may be approved in a fiscal year at \$3 million. Any approved credit in excess of the cap shall be prorated among eligible taxpayers. The maximum tax credit an individual taxpayer may claim shall not exceed 75 percent of the taxpayers gaming tax liability in that fiscal year.

The bill provides criteria for eligibility for the tax credit based on the number of live racing days conducted in a given fiscal year. To be eligible, a licensed racetrack must conduct no fewer days of live horse racing than were conducted in FY14, unless the licensee receives approval from SRC to conduct fewer days of live horse racing.

The bill requires SRC to certify the eligibility of a racetrack for the tax credit with a certificate of eligibility. The bill requires the Taxation and Revenue Department to periodically audit the records of the live horse race gaming tax credit. Also, the bill requires annually reporting to the interim Revenue Stabilization and Tax Policy Committee and the Legislative Finance Committee regarding the data compiled from the reports from taxpayers taking the deduction and other information to determine whether the deduction is meeting its purpose.

The effective date of this bill is January 1, 2016.

## **FISCAL IMPLICATIONS**

New Mexico currently has five racetrack licensees and six horse race meets. There is a total of 288 scheduled live horse racing days in 2015. Four racetrack licensees qualify for the \$12.5 thousand per live race day gaming tax credit and two racetrack licensees qualify for the \$7.5 thousand per live race day gaming tax credit.

Based on information from SRC's website, this analysis assumes that the number of live race days at each race meet will not vary from 2015 numbers. Also, the analysis assumes that there will be 199 days of live racing that qualify for the gaming tax credit between the effective date of the bill, January 1, 2016, and the end of FY16, June 30, 2016 and 288 live race days in FY17. The estimated fiscal impact may decrease if additional racetrack gaming operator licensees net take increases and their gaming tax goes above the \$10 million threshold.

Estimating the cost of tax expenditures is difficult. Confidentiality requirements surrounding certain taxpayer information create uncertainty, and analysts must frequently interpret third-party data sources. The statutory criteria for atax expenditure may be ambiguous, further complicating the initial cost estimate of the expenditure's fiscal impact. Once a tax expenditure has been approved, information constraints continue to create challenges in tracking the real costs (and benefits) of tax expenditures.

## **SIGNIFICANT ISSUES**

The LFC tax policy of accountability is met with the bill's requirement to report annually to the interim Revenue Stabilization and Tax Policy Committee and the Legislative Finance Committee regarding the data compiled from the reports from taxpayers taking the deduction and other information to determine whether the deduction is meeting its purpose.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy:** Revenue should be adequate to fund needed government services.
2. **Efficiency:** Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity:** Different taxpayers should be treated fairly.
4. **Simplicity:** Collection should be simple and easily understood.
5. **Accountability:** Preferences should be easy to monitor and evaluate

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