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FISCAL IMPACT REPORT

SPONSOR Maestas LAST UPDATED _____
ORIGINAL DATE 2/8/23
BILL
SHORT TITLE Equitable Access to Event Tickets NUMBER Senate Bill 100
ANALYST Torres, J

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*

(dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal		Nonrecurring	General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent version of this legislation.

Sources of Information

LFC Files

Responses Received From

New Mexico Attorney General (NMAG)
Department of Information Technology (DoIT)
Administrative Office of the Courts (AOC)

No Response Received

Economic Development Department (EDD)

SUMMARY

Synopsis of Senate Bill 100

This bill targets ticket resellers who use automated technology to purchase large quantities of event tickets to resell at inflated prices. This new section of the New Mexico Unfair Practices Act (NMUPA) would prohibit the purchaser from circumventing the event ticket issuer's online purchasing limits and then selling or offering those tickets for sale. It must be shown that the seller participated in, controlled, knew or should have known about the circumvention. The bill provides a carve-out for creating or using software to investigate such circumventions or to test an event ticket issuer's systems, which would not be in violation of the NMUPA.

The effective date of this bill is July 1, 2023

FISCAL IMPLICATIONS

DoIT states:

Senate Bill 100 would make evasion of security controls to obtain an event ticket, or selling a ticket obtained by any such evasion, an unlawful trade practice. Unfair trade

practices are actionable by the Attorney General or by a private party who is economically harmed by the trade practice. It would be difficult for a consumer to prove economic harm from not being able to purchase an event ticket, so enforcement would be left largely to the Attorney General. The time, expense and expertise required to prove any computer- based crime is significant, which could result in lax or no enforcement of this law.

SIGNIFICANT ISSUES

DoIT states:

Senate Bill 100 prohibits circumvention of web-store security controls and measures that limit the number of tickets a person can purchase to an event. Enforcement issues would be significant. It is not clear who would be enforcing this action. It is also unclear on what standards would be followed, or the quantum of proof required to prove a violation.

There do not appear to be any major ticket event vendors with a home office in New Mexico, and event tickets are offered for sale nationwide. The New Mexico Attorney General would likely not have jurisdiction over violations involving out-of-state actions. The Attorney General would need to retain staff who are trained in computer forensics, and who have broad subpoena power, to enforce this law. DoIT does not know what the current resources are at the Attorney General's office.

PERFORMANCE IMPLICATIONS

NMAG states:

As the agency responsible for enforcing the NMUPA, NMAG may be called upon to devote additional enforcement resources to enforcing SB100. This may affect the office's other performance-based targets.

OTHER SUBSTANTIVE ISSUES

NMAG states:

The bill largely mirrors the federal Better Online Ticket Sales ("BOTS") Act of 2016 (*see* 15 U.S.C. § 45c). Notwithstanding that fact, the federal BOTS Act does not appear to preempt the bill. The two laws prohibit the same conduct, and the remedies available under the federal law are not exclusive.

ALTERNATIVES

DOIT states:

Best practices recommend security practices such as Open Web Application Security Project (OWASP) and NIST 800-53 security controls to be implemented and tested during application/on-site development and continuous testing as vulnerabilities are identified and introduced on a regular basis. This should be accomplished by the seller as the buyer would not have any control over this process. OWASP is an online community that produces freely-available articles, methodologies, documentation, tools, and technologies in the field of web application security. The OWASP provides free and open resources.

Prohibit resale of event ticket at an amount above face value of ticket and substantiated purchase fees.

JT/ne/al