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FISCAL IMPACT REPORT

SPONSOR Madrid ORIGINAL DATE 02/18/21
LAST UPDATED _____ HB 249
SHORT TITLE No Smoking-Permitted Areas at Racinos SB _____
ANALYST Chilton

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Minimal	Minimal	Minimal	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to House Bill 167 and Senate Bill 197

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Health (DOH)

State Fair Commission (SFC)

Regulation and Licensing Department (RLD)

State Racing Commission (SRC)

SUMMARY

Synopsis of Bill

House Bill 249 would remove racinos (state licensed race tracks with gambling venues) from the list of locations where smoking areas are permitted. The list of indoor locations where smoking areas are permitted under the Dee Johnson Clean Indoor Air Act (Section 24-16-12 NMSA 1978) includes the following:

- Private residences, unless used for day care for children or adults
- Retail tobacco establishments
- Cigar bars
- Tobacco manufacturing facilities
- State-licensed gaming facilities (from which the exception of racinos would now be enacted)
- Private clubs
- Hotels and motels in smoking-permitted rooms
- Cultural use by Native Americans

- Theatrical or movie productions where actors must smoke

In addition the date of the original act's coming into effect, June 14, 2019, is inserted in several parts of the act, replacing the designation "the effective date of this 2019 act."

There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

There is no appropriation contained within House Bill 249.

The small decrease in racino smoking might minimally decrease state tobacco tax revenue; conversely, more gambling revenue might ensue if non-smokers increase racino attendance, as predicted by the Gaming Control Board. The State Fair Commission does not anticipate any change in revenue.

The State Racing Commission disagrees with this assessment: "HB249 would more than likely reduce revenue for racetrack operators approximately 18-25 percent. The decrease in revenue would snowball to decreases in the purse funds for horse racing, revenue to the state in gaming tax, and pari-mutuel tax. If on track pari-mutuel handle decreases due to the effects of HB249 the state racing commission's equine test fund will decrease, leading to less regulation (testing) in horse racing... HB249 would make it illegal to smoke at a racetrack and its gaming facility, but smoking would continue to be legal at (some) tribally owned casinos. HB249 would more than likely drive gamblers that smoke to tribal casinos instead of racetrack operator's facilities."

SIGNIFICANT ISSUES

The serious adverse of smoking and of second-hand smoke have been well known since at least Surgeon General Luther Terry's 1964 Report, *Smoking and Health*. The New Mexico Department of Health sums up the reasons for support of restrictions on smoking in gambling facilities:

Gaming facility employees often suffer more severe secondhand smoke exposure than other workers. Prohibiting smoking and vaping is the only way to effectively protect employees and patrons from the dangers of secondhand smoke and e-cigarette aerosols. Twenty states, including the neighboring states of Arizona and Colorado, have passed laws making all their state-regulated gambling facilities 100 percent smoke-free (<https://no-smoke.org/wp-content/uploads/pdf/100smokefreecasinos.pdf>). In addition, there have been over 200 gaming venues that closed due to Covid-19 restrictions have reopened with smoke-free indoor policies adding to the nearly 800 gaming venues that were already smoke-free prior to the pandemic. ([Reopening Casinos Smoke free: The New Normal](#)).

HB249 would strengthen the Dee Johnson Clean Indoor Air Act to further protect New Mexicans from the harms of secondhand smoke and e-cigarette aerosols. Smoking causes health problems to the user and those around them. The United States Centers for Disease Control and Prevention states that being a current or former cigarette smoker increases your risk of severe illness from Covid-19. (<https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html>) The American Lung

Association states that the lungs are the first body organ affected by Covid-19. (<https://www.lung.org/lung-health-diseases/lung-disease-lookup/covid-19/about-covid-19>).

In addition to health benefits, smoke-free gambling facilities report financial benefits, such as fewer employee sick days, a reduction in employee health care related costs, less money spent cleaning and removing nicotine tar from surfaces, and less money spent on air filters. Claims that smoke-free laws push customers towards casinos where smoking is permitted are unsupported by research. Research indicates that smoke-free laws have no adverse economic impact, and in some cases, actually increase revenue (<https://www.publichealthlawcenter.org/sites/default/files/tclc-syn-casinos-2007.pdf>).

RELATIONSHIP with House Bill 167 and Senate Bill 197, each of which would increase tobacco taxes; HB97 and SB95, each of which would allow local options to further restrict tobacco use, HB205, prohibiting flavored tobacco products and imposing penalties on minors for using tobacco products, and SB187, regarding the disposition of funds from the tobacco settlement permanent fund.

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