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FISCAL IMPACT REPORT

SPONSOR Griego **DATE TYPED** 2/15/2005 **HB** _____

SHORT TITLE Revise Athletic Competition Privilege Tax **SB** 713/aSIAC

ANALYST Taylor

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
	Uncertain		Recurring	Athletic Commission
	Uncertain		Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files
Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of SIAC amendments

The Senate Indian and Cultural Affairs committee (SIAC) amendments are technical in nature. They strike references to the privilege tax and replace them with the word “fee”. These changes have the effect of making the language in the bill consistent.

Synopsis of original bill

Senate Bill 713 revises and renames the Privilege Tax on Athletic Competition and the Privilege Tax on Closed Circuit Telecasts or Motion Pictures.

The Privilege Tax on Promotions is renamed the Regulatory Fee on Promotions; and the Privilege Tax on Closed Circuit Telecasts or Motion Pictures is renamed the Supervisory Fee on Closed Circuit Telecasts or Motion Pictures. The fee structure provided in the bill is different than the tax structure in that the tax structure imposed specific tax rates: 4 percent of gross receipts for the Promotion Tax and 5 percent of gross receipts for the Supervisory Fee, while the fees established in the bill could not exceed those rates. Revenue from the fees like the tax they replace would be deposited in the “athletic commission fund”.

The bill also provides for cooperative agreements with tribal governments. The athletic commission is empowered to enter into cooperative agreements with Indian nations, tribes or pueblos for management or control of professional contests in New Mexico. It provides rules governing money collected pursuant to the agreements, stating: "Money collected by the commission on behalf of the Indian nation, tribe or pueblo in accordance with the agreement is not money of the state and shall be collected and disbursed in accordance with the terms of the agreement, notwithstanding any other provision of law." To become effective, the agreements must be signed by the governor.

FISCAL IMPLICATIONS

Renaming the tax a fee should have no fiscal impact. Theoretically, the fee structure could be lower than the tax, but currently there is no reason to assume that is so. RLD notes that reducing the fees may encourage more events in the state, but an increase in the number of such events is not estimated.

However, the provisions allowing for cooperative agreements between the state and Indian governments *may* have a fiscal impact. In particular, the quoted language regarding money being collected and disbursed in accordance with the agreement, notwithstanding any other provision of the law would appear to provide the possibility to waive by agreement other taxes that may normally be required. As of this writing, the Taxation and Revenue Department had not analyzed this bill. Their interpretation of this provision will help determine the potential fiscal impacts, if any. This analysis will be updated upon receiving information from the department.

ADMINISTRATIVE IMPLICATIONS

RLD's analysis reports no administrative impact.

TECHNICAL ISSUES

The civil penalty provisions of the bill provide a penalty for failure to pay when due the regulatory or supervisory fee. The penalty is not to exceed ten percent of the tax due. Perhaps, for consistency purposes this should read ten percent of fees dues.

BT/yr