F I S C A L   I M P A C T   R E P O R T

		ORIGINAL DATE	2/4/2016		
SPONSOR	Stapleton/Moores	**LAST UPDATED**	2/5/2016	**HB**	215/aHGEIAC
SHORT TITLE	State Fair Funding Act			**SB**	
				ANALYST	Mulligan

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	**FY17 ***	**FY18 ***		
	($ 480.0)	($ 480.0)	Recurring	General Fund
	$ 480.0	$ 480.0	Recurring	New State Fair Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

*See FISCAL IMPLICATIONS

SOURCES OF INFORMATION
LFC Files

Responses Received From
Attorney General (AG)
Gaming Control Board (GCB)
Racing Commission (SRC)
State Fair Commission (SFC)

SUMMARY

Synopsis of HGEIAC Amendment

The House Government, Elections and Indian Affairs Committee amendment to HB 215 simply makes a single stylistic change to the bill, adding the word “thousand” after “ten” in the definition of “arena” so that it reads, “. . . center that provides seating for ten thousand to fifteen thousand people . . .”.

Synopsis of Original Bill

HB 215 would enact the “State Fair Funding Act” and amend current tax laws relating to the State Fair by exempting state fair-related receipts from the gross receipts tax and by instead imposing a new state fair surcharge of 6 and 5/16th percent. Revenue received under the legislation would be required to be expended on constructing a ten- to fifteen-thousand seat event center, presumably to replace the aging Tingley Coliseum, or to pay debt service payments on bonds secured to construct a new event center. No funding could be used to benefit property leased to or under the control of persons licensed pursuant to the Horse Racing Act or the Gaming Control Act.

Specifically, the bill would exempt from current gross receipts taxes all receipts from State Fair tickets, parking, souveniers, concessions, program, advertising, merchandise, suite rentals, broadcast revenue, and all other products and services sold at the state fairgrounds, and instead impose a “state fair surcharge” of 6 and 5/16th percent as a new tax.

The bill would also authorize the State Fair Commission to issue revenue bonds based upon the surcharge revenue stream, in accordance with provisions of state law that provide the legal authority for the SFC to issue bonds (16-6-16 through 16-6-22 NMSA 1978).

FISCAL IMPLICATIONS

Currently, the state fairgrounds has its own tax rate, 6.2500 percent. The proposed surcharge, at 6.3125 percent, would represent a 1/16th, or .0625 percentage point, increase over the current rate. The bill would eliminate the GRT revenue stream to the state general fund and create a new revenue stream based upon the surcharge to the Taxation and Revenue Department (TRD). TRD would be required to transfer the funds received under the surcharge to a fund administered by the State Fair Commission.

It appears that imposition of the surcharge in lieu of the current gross receipts tax would end up resulting in essentially flat net revenue amounts. Because the bill contains provisions that specifically define the surcharge as a tax and include it in the Tax Administration Act, the same tax deductions would apply to the surcharge, leading to estimated total revenue amounts that essentially equal those currently in place for GRT. Depending upon the total amount of revenue that would be collected under the surcharge, varying amounts of debt could be supported with the revenue stream.

During state fiscal year 2015, gross receipts tax revenue from the State Fair totaled $480.0 thousand:

	State Fair Gross Receipts Tax Revenue			
	State Fiscal Year 2015 Actual			
CY	Month	Gross Receipts	Taxable Gross Receipts	Gross Tax
2014	July	$ 4,031,173	$ 394,944	$ 23,943
2014	Aug	$ 5,097,040	$ 701,466	$ 42,526
2014	Sept	$ 4,873,588	$ 551,041	$ 33,406
2014	Oct	$ 5,110,656	$ 837,759	$ 50,789
2014	Nov	$ 4,902,325	$ 1,138,088	$ 68,996
2014	Dec	$ 4,458,763	$ 569,349	$ 34,478
2015	Jan	$ 4,581,182	$ 618,755	$ 37,512
2015	Feb	$ 4,458,763	$ 569,349	$ 34,478
2015	Mar	$ 5,212,940	$ 682,268	$ 41,362
2015	Apr	$ 4,732,765	$ 437,454	$ 26,520
2015	May	$ 5,929,095	$ 775,125	$ 46,991
2015	June	$ 4,977,824	$ 635,343	$ 38,590
		$ 58,366,114	$ 7,910,939	$ 479,592

Because the surcharge rate is nearly the same as the GRT rate, it can be assumed that the bill is revenue neutral. The State Fair Commission reports that, based upon preliminary information from the Taxation and Revenue Department, approximately $800.0 could be generated annually under the bill. At the time of this analysis, TRD had not submitted an analysis of the bill.

SIGNIFICANT ISSUES

The bill represents an alternative method of financing construction of a new event center at Expo New Mexico and the State Fair. Currently, the State Fair relies upon the legislative capital outlay process for funding to construct new and replacement facilities. The bill would create a dedicated revenue stream with which to finance the issuance of revenue bonds for the new facility.

Similar provisions providing for surcharges and associated exemptions from gross receipts taxes exist for other facilities, such as municipal event centers and minor league baseball facilities. The municipal event centers surcharge exemption provides that receipts from selling tickets, parking, souvenirs, concessions, programs, advertising, merchandises, corporate suites or boxes, broadcast revenues and all other products or services sold at or related to a municipal event center on which an event center surcharge is imposed pursuant to the Municipal Event Center Funding Act (7-9-13.5 NMSA 1978) are exempt from gross receipts taxes. Similar, receipts from selling tickets, parking, souvenirs, concessions, programs, advertising merchandise, corporate suites or boxes, broadcast revenues and all other products, services or activities sold at, related to or occurring at a minor league baseball stadium on which a stadium surcharge is imposed under the Minor League Baseball Stadium Funding Act (7-9-13.3) are exempt from gross receipts taxation.

The State Fair believes that the funding structure outlined in the proposed legislation is likely insufficient to fund the debt service for a new events center. However, the amount of revenue needed to construct a new events center would depend upon the size and cost of the contemplated facility as well as the cost of financing. Under a scenario provided by the New Mexico Finance Authority, the debt service payments for a facility costing $10.0 million, financed for 20 years, would cost approximately $700.0 thousand annually, which increases to approximately $900.0 thousand annually when minimum revenue coverage is included. Similarly, a $30 million facility would require annual revenue of approximately $2.7 million, according to information provided by the New Mexico Finance Authority:

Project Fund Level	Total Bond Par Amount	Estimated Interest Rate	Term	Estimated Annual Debt Service	Minimum Revenue for Coverage
$ 10 million	$ 10.775 million	2.63%	20 yrs	$ 702,000	$ 912,600
$ 20 million	$ 21.510 million	2.63%	20 yrs	$ 1,401,000	$ 1,821,300
$ 30 million	$ 32.245 million	2.63%	20 yrs	$ 2,099,000	$ 2,728,700

Although specific cost estimates are difficult to obtain, it appears that a venue of the size contemplated in the legislation would require significantly more funding than is projected under the surcharge.

ADMINISTRATIVE IMPLICATIONS

The bill would require vendors who are subject to the surcharge to file a tax return and remit payment each month to TRD and maintain records on the surcharge for three years. It appears that the bill would simply require vendors to now assess, remit, and report the state fair surcharge in place of the current gross receipts tax filing that vendors are required to submit under current law, and to do so monthly. The bill would also require the State Fair to provide for audits or reviews to ensure that vendors are filing and submitting the surcharge in accordance with the law.

TECHNICAL ISSUES

The bill provides that money received from the Taxation and Revenue Department by the State Fair "shall be used" for constructing and maintaining an event center or for paying debt service payments on bonds. However, all expenditures by state agencies are subject to appropriation by the Legislature; therefore, the statute may authorize expenditures in the absence of legislative appropriations in conflict with the requirement that expenditure authority must be granted by the Legislature through the appropriation process.

MM/al