FISCAL IMPACT REPORT

		LAST UPDATED	
SPONSOR	Munoz	**ORIGINAL DATE**	3/9/23
SHORT TITLE	Sale of Alcohol on Leased Property	**BILL NUMBER**	Senate Bill 435
		ANALYST	Toal

REVENUE*
(dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
	FY24	**FY25**		
SLO	Indeterminate but negative	Indeterminate but negative	Recurring	Land Maintenance Fund
Alcohol Taxes	Indeterminate but negative	Indeterminate but negative	Recurring	General fund/DWI fund
State Fair	At least ($2,750.0)	At least ($2,750.0)	Recurring	State fair fund
DCA	At least ($1,000.0)	At least ($1,000.0)	Recurring	General Fund
Total	At least ($3,750.0)	At least ($3,750.0)	Recurring	

Parentheses ( ) indicate revenue decreases.
*Amounts reflect most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

	FY23	**FY24**	**FY25**	**3 Year Total Cost**	**Recurring or Nonrecurring**	**Fund Affected**
	No fiscal impact	No fiscal impact	No fiscal impact			

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

<u>Responses Received From</u>
Regulation and Licensing Department (RLD), Alcohol Control Board
Office of the Attorney General (NMAG)
State Land Office (SLO)

<u>No Response Received</u>
Department of Health (DOH)

SUMMARY

Synopsis of Senate Bill 435

Senate Bill 435 would amend Section 60-7A-4.1 NMSA 1978 making it unlawful for a person, including a person with a license issued pursuant to the Liquor Control Act, to sell or attempt to sell alcoholic beverages at a location on real property leased from the State of New Mexico. The bill would impose a fourth-degree felony on any person selling or attempting to sell alcoholic beverages on real property leased by the state.

The bill has an effective date of July 1, 2023. This may be a problem for leases that are on a calendar year basis.

FISCAL IMPLICATIONS

Responding agencies report no fiscal impact to their operating budgets, however, the amount of revenue to state facilities or state properties and to alcohol sales tax revenue that could be lost is substantial.

The State Fair reports, while the use of alcohol at events at Tingley Coliseum and other venues on State Fair grounds and at the Downs at Albuquerque racino on State Fair grounds should be protected under 60-68-31 of state law, SB435 puts that use, and the ability to rent those venues, at risk. State Fair venues would be at significant competitive disadvantage without liquor sales and, while the Downs could not easily extricate itself from its 25-year contract with the state, the loss of liquor sales would make it difficult to attract customers. The Downs pays $2.75 million a year to the State Fair as a base and 26 percent of income from the racino.

State Fair officials note other state and higher education agencies, which rent facilities to events, would also struggle to book their facilities without liquor sales. The Cultural Affairs Department, which rents museums and other spaces for events, earns $1 million a year from rentals and earned as much as $2 million prepandemic.

In addition, the State Land Office, which has numerous commercial leases for state trust land, indicates:

> State Land Office revenue would be impacted both with respect to existing leases where revenue sharing is part of the payment structure and where the specific business venture no longer becomes viable due to the inability to legally serve or sell alcohol. The bill would also have an adverse impact on the ability of the State Land Office to attract businesses to state trust lands in the future.

The fiscal impact table for revenues above indicates at least $3.75 million in losses as a conservative and incomplete estimate. Total losses could easily be in the tens of millions.

SIGNIFICANT ISSUES

NMAG has noted that enactment of the bill may present a problem to state facilities or properties (such as EXPO, the State Fairgrounds, museums, UNM, NMSU, or other members of the university system) that have contracts in place for the sale of alcoholic beverages on their property.

RLD notes that state entities often lease their governmental licenses, and facilities, to private operators who have more experience and expertise in the sale, service, and consumption of alcoholic beverages as a responsible means of holding a liquor license.

SLO noted that there was ambiguity as to what would be defined as "real property leased from the State of New Mexico." SLO reported that it had hundreds of business leases, and that prohibiting alcohol sales would put them at a competitive disadvantage for special events.

The estimated loss of revenue to the facilities is unknown, but SLO states that the impact will be negative but given the turnaround time on FIRs, they were unable to estimate or substantiate the estimated loss.

RBT/rl/ne