

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the Legislature. LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

FISCAL IMPACT REPORT

SPONSOR Zamora **LAST UPDATED** _____
ORIGINAL DATE 1/23/2024
BILL
SHORT TITLE Gaming Expenses Calculation **NUMBER** House Bill 159
ANALYST Gray/Anderson

REVENUE* (dollars in thousands)

Type	FY24	FY25	FY26	FY27	FY28	Recurring or Nonrecurring	Fund Affected
Gaming Excise Tax					(\$3,200.0)	Recurring	General Fund

Parentheses () indicate revenue decreases.

*Amounts reflect most recent analysis of this legislation.

Conflicts with Senate Bill 105

Sources of Information

LFC Files

Agency Analysis Received From
Gaming Control Board (GCB)

Agency Analysis was Solicited but Not Received From
Taxation and Revenue Department (TRD)
State Racing Commission (SRC)

SUMMARY

Synopsis of House Bill 159

House Bill 159 repeals a section of law that would raise the gaming excise tax by 1.2 percentage points beginning FY28.

Some context is useful to understand the effect of HB159. In 2023, the Legislature made three changes to Section 60-2E-47 in Laws 2023 Chapter 122 (SB336):

- First, section 1 decreased the gaming excise tax rate imposed on for-profit gaming operators from 26 percent to 24.8 percent and directed that the 1.2 in net take go toward offsetting jockey insurance costs;
- Second, section 3 required that the state racing commission make a recommendation to

the Legislature in FY27 regarding whether the tax decrease (section 1) should be continued; and

- Third, section 4 brought the gaming excise tax rate back to 26 percent effective FY28 after the state racing commission made its recommendation. Effectively, this ensured that if the Legislature chose to not act, the gaming excise tax rate would be restored to 26 percent and state revenues would be made whole.

HB159 repeals Laws 2023 Chapter 122 section 4. This means that if the Legislature chooses not to act, the gaming excise tax rate will remain at 24.8 percent, at a cost to state revenues.

The bill also makes a small change to how gaming operators distribute their net take to charitable or educational purposes.

The effective date of this bill is July 1, 2024.

FISCAL IMPLICATIONS

The bill does not include a recurring appropriation, but diverts or “earmarks” revenue, representing a recurring loss from the general fund. LFC has concerns with including continuing distribution language in the statutory provisions for funds because earmarking reduces the ability of the Legislature to establish spending priorities.

This analysis used the Consensus Revenue Estimating Group (CREG) December 2023 estimate of gaming excise tax revenue and calculated the estimated cost of 1.2 percentage points of revenue to the state general fund.

SIGNIFICANT ISSUES

Analysis from the Gaming Control Board (GCB) states:

The Repeal Reenactment of this bill was never intended to apply to non-profit gaming revisions contained in subsection (G). The Repeal Reenactment was meant to apply to the changes made to subsections (E) and (F).

The agency also points out that there were conflicts with Laws 2023 Chapter 122 (SB336) and Laws 2023 Chapter 154 (HB253) that could not be reconciled in the compilation of statute.

However, this bill is not exclusively technical in nature. The bill will have a revenue impact in FY28, as noted above.

BG/GA/al/ne