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## FISCAL IMPACT REPORT

SPONSOR Griego DATE TYPED 3/12/05 HB \_\_\_\_\_

SHORT TITLE Gaming Board Regulation of Bingo and Raffles SB 370/aSFC

ANALYST Medina

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	NFI				

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to the Bingo and Raffle Act

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
	Indeterminate*	Same	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

\*The Regulation and Licensing Department reports that \$102 thousand was collected in FY04 on the 3 percent Bingo and Raffle Tax.

### SOURCES OF INFORMATION

LFC Appropriation Recommendation, LFC files

#### Responses Received From

Gaming Control Board (GCB)

Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of SFC Amendment

The Senate Finance Committee amendment makes strengthens the licensing authority of the Gaming Control Board as part of the transfer of authority from the Regulation and Licensing Department. The amendment repeals the secondary enforcement authority of the Department of Public Safety, striking DPS's ability to issue subpoenas for the attendance of witnesses and the production of books, records and other documents, DPS's responsibility to have a certified reporter present to prepare a record of licensing hearings in which oral testimony is being taken, and DPS's ability to apply for investigation orders in district court.

The amendment clarifies that the title of the new material proposed in Section 4 of the original bill is to read “Bingo and Raffle Tax” and cleans up language in this section of the bill to reflect the change of the section’s title.

The amendment clarifies that the bingo and raffle tax is to be imposed on qualified organizations engaged in activities authorized by the Bingo and Raffle Act.

Finally, the amendment removes the provision that distributors and manufacturers of bingo equipment pay a ten percent bingo equipment tax, and that lessors of premises or equipment used for bingo and raffle activities pay a ten percent bingo lease tax. Striking these provisions leaves the proposed three percent bingo and raffle tax imposed on qualified organizations in tact.

### Synopsis of Original Bill

Senate Bill 370 transfers the regulation of bingo and raffle from the Regulation and Licensing Department (RLD) to the GCB. The bill also expands the authority of GCB to adopt rules that regulate bingo and raffle activities. The bill authorizes a new 10 percent tax on distributors and manufacturers of bingo equipment and a new 10 percent tax on lessors of premises or equipment for bingo. The bill repeals the 3 percent tax on net proceeds of bingo and raffle games collected by RLD and replaces it with a new 3 percent tax on net proceeds to be collected by TRD.

### Significant Issues

The executive's “Moving New Mexico Forward” plan recommends that the administration and enforcement of the Bingo and Raffle Act be transferred to GCB. Pursuant to the Bingo and Raffle Act (60-2B-1 to 60-2B-14 NMSA 1978), enacted in 1981, the Alcohol and Gaming Division (AGD) of the Regulation and Licensing Department issues licenses and collects fees from non-profit organizations conducting bingo games and raffles. As the monitoring, regulatory, and auditing agency for these activities, AGD receives reports of suspicious activities and refers them to the Special Investigations Unit of the Department of Public Safety. Unlike GCB, neither agency is required or equipped to regulate gaming machines and equipment. The licensing and enforcement divisions of GCB could easily absorb the licensing and enforcement functions of the Bingo and Raffle Act without additional funding or FTE.

### **ADMINISTRATIVE IMPLICATIONS**

According to GCB, There will be an impact on both the RLD and GCB in transferring all hard-copy records and electronic media. GCB will need to promulgate new rules to effect proper regulation of bingo and raffle. All divisions will have added responsibilities upon the transfer of duties to GCB.

### **FISCAL IMPLICATIONS**

The GCB states that it is anticipated that additional revenue will be generated upon the licensure of manufacturers, distributors, and commercial lessors. This amount is yet to be determined.

### **TECHNICAL ISSUES**

The Taxation and Revenue Department addresses the following technical issues with Senate Bill 370:

1. Section 1, p. 2, lines 15-16. The bill's definition of "commercial lessor", as now drafted, refers to an entity that "leases space" to qualified organizations. This definition is not consistent with how the term "lessor" is used in section 4, subsection A, p. 21, lines 15-19.
2. Section 2, subsection 8, p. 11, lines 12-15. The term "permits" is not defined. It is unclear whether the bill authorizes the licensing authority to set permit fees, suspend or revoke permits, set qualifications for permits, etc.
3. Section 2, subsection 9, p. 11, lines 16-17. The expression "reasonable amount of expenses" is not clarified nor defined.
4. Section 2, p. 16, lines 15-17. Subsection Q governs procedures followed in district court to compel compliance with subpoenas and orders issued under the Bingo and Raffle Act. In line 15, the term "or the order" is deleted, which makes the provision inconsistent with the provisions in Subsection P authorizing the Gaming Control Board and Department of Public Safety to apply to the district court for an order to show cause if a person fails to comply with the Board's subpoena or order. The term "or the order" should be restored in line 15.
5. Section 4, p. 22, lines 4-6. The bill provides that TRD shall administer the taxes imposed by the bill pursuant to the Tax Administration Act. To avoid confusion, a corresponding amendment might be made to the applicability provision (Section 7-1-2) of the Tax Administration Act.

## **OTHER SUBSTANTIVE ISSUES**

The LFC further recommends that definitions in the Bingo and Raffle Act be amended to make video bingo machines illegal. GCB reports that advances in gaming machine technology have led to the development of video bingo gaming machines that are practically indistinguishable from traditional casino slot machines. Widespread adoption of such video bingo machines by the state's gaming licensees and Indian casinos could potentially have a devastating effect on gaming tax and revenue shares collected because bingo is essentially untaxed and not subject to revenue sharing.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?**

The regulation of bingo and raffle activities will continue to be the responsibility of the Regulation and Licensing Department and the taxation of bingo and raffle tax will continue at the current level of 3 percent.

## **POSSIBLE QUESTIONS**

What is the benefit of transferring regulatory authority of bingo and raffle to the Gaming Control Board?

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