

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

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 02/08/11

SPONSOR Griego, E. LAST UPDATED _____ HB _____

SHORT TITLE Allowing Savings Promotion Raffles SB 229

ANALYST Graeser

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		NFI	NFI	NFI	NA	NA

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Gaming Control Board (GCB)

Attorney General's Office (AGO)

Regulation and Licensing Board (RLD)

SUMMARY

Synopsis of Bill

Senate Bill 229 allows state banks to sponsor and conduct savings promotion raffles. As long as each ticket has an equal chance of winning, the money deposited in the bank (over a certain minimum amount) would not be considered "consideration." This is important because if total consideration exceeds \$75,000, the bank would have to notify the Gaming Control Board. Similarly, if the bank conducts more than four raffles a year, all the raffles would come under the provisions of the Gaming Control Act and would require that all raffles be permitted.

FISCAL IMPLICATIONS

Unless a bank conducted more than four savings raffles a year, it would not have to permit the raffle or notify the GCB of the activity. If any bank exceeded that limit, then there would be a small fiscal impact on the GCB.

SIGNIFICANT ISSUES

The most significant issue for savings raffles is if such raffles were considered gaming or gambling by the Native American casinos. If the tribes who signed gaming compacts with the state considered savings raffles as gambling, then these tribes would probably seek arbitration to

adjust the required revenue sharing percentage. The AGO's analysis did not address this problem, but this modest proposal could have major fiscal impacts on the state.

Section 2 B of the bill explains, "...consideration shall not be deemed to have been given in a savings promotion raffle as long as each ticket has an equal chance of being drawn." This is not likely to be material as to whether the Indian tribal and casino interests sue or seek arbitration.

Ultimately, however, extending gaming, gambling or raffles outside the strict limits of the gaming compacts may have consequences.

The bill allows the banks to adjust fees or interest rates to partially (or fully) offset the cost of cash prizes. However, these savings promotions would probably be accompanied by "teaser rates" in addition to the cash prizes.

ADMINISTRATIVE IMPLICATIONS

The Director of the Financial Institutions Division of the Regulation and Licensing Department can invoke the wild card statute NMSA 1978, §§ 58-1-54 "Powers of director and of State banks", and 58-11-20 "Advantageous Federal Powers" which grant the director the Authority to grant to state chartered institutions both banks and credit unions those activities and or powers granted to Federally Chartered institutions under Federal law. Allowing these raffles by statute rather than regulation is preferable because of the potential consequences to state revenues from breach and subsequent arbitration under the Indian gaming compacts.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 270 authorizes the savings promotion lotteries and seeks by definition in three places to consider these savings raffles as some other activity than "gambling." In section 1 of the bill, a savings promotion raffle is excluded from the definition of "bet". Also in section 1 of the bill, a savings promotion raffle is excluded from the definition of a "gambling device." Finally, SB 270 retains the language contained in this bill "deeming" that consideration has not been paid when a customer makes a minimum deposit.

OTHER SUBSTANTIVE ISSUES

The banks could set a very high minimum deposit required to qualify for a ticket in the raffle – say \$10,000 dollars. The prize could be – say \$100,000. The language that declares such a raffle to be "not gambling" for the purpose of notification to the GCB or for the purpose of violating the gaming compacts might not protect the state's interests. As noted above, the Indian tribes and casino interests are effectively sovereign and can sue in state courts for violation of the compacts or seek arbitration to decrease the required revenue sharing rates based on this proposed breach of the terms of the compacts.

ALTERNATIVES

It might be preferable to set the largest value of any prize offered in a raffle (less than \$75,000 – the value in the Gaming Control Act – required for notification to the GCB) and the largest minimum deposit value (say \$100, or \$1,000) acceptable to have the deposit not considered consideration for the savings raffle.

POSSIBLE QUESTIONS

Will the Indian casino and tribal interests accept these savings deposit raffles as not being gambling within the meaning of the gaming compacts? If these interests oppose the savings deposit raffles, would setting limits on the raffles render the proposal acceptable?

LG/bym