

Comments from Stakeholders Regarding the Statutory Sunset Review for the New Mexico Racing Commission

Per Sections 60-1A-29 and 12-9-11 to 12-9-21 NMSA 1978

#1. The NMSRC enforces the rules and regulations of horseracing in New Mexico. The Racing Commission deals not only with the race tracks but with all licensed personnel including owners, trainers, jockeys, exercise riders, grooms, veterinarians, and vendors. Besides enforcing the regulations, they also oversee the financial transactions and responsibilities of all licensed entities. It is important to have an informed yet impartial commission who can promulgate new rules which are best for the industry without bias to any one group. With the upcoming Federal Horseracing Legislation, it is important to have a state body in communication with the new Federal Commission to represent New Mexico's interests.


#2. The Racing Commission employs investigators, race day judges (stewards) veterinarians, financial experts, race review committees along with an Agency Director well versed in horse racing who oversees the process of enforcement and safety issues. Along with post-race drug testing, the NMSRC recently adopted out of competition hair testing to help maintain the integrity of the sport.

#3. This current board of commissioners, agency staff, and director represent the state of New Mexico and the horse racing industry extremely well. They are dedicated to doing what is best for the industry as a whole and their experience in horseracing is invaluable. This current commission battled through an historic pandemic. Their resources were dramatically reduced due to the pandemic; resources that are used for both pre-race drug testing and post-race drug testing. With less resources in 2020, this commission and staff still managed to provide support and regulatory control. This commission needs to be commended.

#4. We believe that the current statutes allow for effective an efficient regulation of horseracing. There are standing rules and medication committees chaired by one of the commissioners that allows changes to the current NMSRC rules as changes in the industry demand new or updated rules. Violators in the sport of horseracing will always be present. Due to numerous outside organizations demanding the end of horseracing worldwide, it is imperative that violators and, more importantly, repeat violators are dealt with accordingly. The statutes allow the Racing Commission to make rules that deal with ever changing challenges to the integrity of the sport.

#5. Horse racing in New Mexico could not survive without a regulatory board. (Racing Commission) Boards are mandated to regulate the practice of a given profession, occupation or industry in the public interest.

Sincerely,

A handwritten signature in black ink, appearing to read "Don E. Cook". The signature is written in a cursive style with a large, sweeping flourish at the end.

Don E. Cook
DAA




New Mexico Gaming Control Board appreciates the opportunity to submit a statement on the Sunset Review for the New Mexico Racing Commission.

The New Mexico Racing Commission provides value for both licensees and other stakeholders by providing regulation that establishes a fair, safe and balanced environment for horse racing to occur in New Mexico. Every group is afforded the ability to work, flourish and profit by means that ensure that one group does not do so at the expense or harm of another.

The New Mexico Racing Commission promotes the safe and effective practice of horse racing in New Mexico through regulations that set and establish the standards of operation which makes sure that competition is fair and safe for participants and honest for patrons who support it. How races are run, and participants engage in their livelihoods occurs with integrity and means that many people can still make a living in an industry that is older than the State of NM.

The addition of Counsel to the agency will be a valuable aid to the Commission's performance of its duties and will improve the agency's day-to-day operation. This is a really challenging time for all industries and businesses. Increasingly, horse racing must compete for entertainment dollars that are driven by technology and other entertainment options. Off track wagering can be studied to be sure that it is competitive and on par with especially neighboring states. Horse racing is not just competing for local patrons, but nationwide.

The elimination of the Horse Racing Commission would be disastrous to an already depleted and barely surviving industry. Though it is believed that the horse racing industry is responsible for the establishment of legal Gaming in New Mexico, it would be a sad statement if it were Gaming that was responsible for its demise. Horse Racing, the Sport of Kings, is a component of this state's history that is supported by the State's regulatory involvement, to protect the integrity and honor of all who work in it, benefit, and profit from it and patronize it.



Angela M. Armstrong, Staff Counsel
New Mexico Gaming Control Board

Date: June 16, 2021



Michelle Lujan Grisham, Governor

Jeremy J. Romero, Board Chair

June 10, 2021

The Honorable George K. Munoz
New Mexico State Senate
New Mexico State Capital Building
490 Old Santa Fe Trail, Santa Fe, NM 87501

The Honorable Representative Patricia A. Lundstrom
New Mexico House of Representatives
New Mexico State Capital Building
490 Old Santa Fe Trail, Santa Fe, NM 87501

Re: Sam Bregman, Chairman New Mexico Racing Commission

Dear : Senator Munoz & Representative Lundstrom

As Chairman of the New Mexico Gaming Control Board, I am grateful for Chairman Bregman and the New Mexico Racing Commission's (NMRC) open engagement and overall commitment efforts to build a foundation of "Sustainability" and a high priority on moving forward on multiple fronts. Our team is excited about these initiatives implemented by Chairman Bregman and I look forward to a continued "Partnership" between both agencies.

Additionally, for the first time in history, the (NMRC) and (NMGCB) are united in a common goal of a vision in industry leading leadership and commitment to our stakeholders. This balance and integration is the core of our sustainability commitment and it is indispensable, reflected to our "United" vision.

If there are any questions, please contact me at (505) 841-9700.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeremy J. Romero".

Jeremy J. Romero
NMGCB Board Chairman
4900 Alameda Blvd NE, Albuquerque, NM 87113
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- 1) How does NMRC provide value for licensees and other stakeholders? **By overseeing and protecting, as regulators, a valuable and important contributor to New Mexico's economy.**
- 2) How does NMRC promote the safe and effective practice of horseracing in New Mexico? **By being committed to the enforcement of the rules of racing. Increased drug testing for example is having a positive effect.**
- 3) Is the commission well run? What, if any, changes would you like to see in board composition, operations, or other activities? **Generally speaking, yes. More testing, as funding allows, would be welcomed.**
- 4) Do current statutes allow for effective and efficient regulation of horseracing? Would you recommend any changes to statute? **One change that would be welcomed would be the adoption of ADW or Advance Deposit Wagering. Currently, New Mexicans can bet from their phones or computers on racing outside of New Mexico but not within New Mexico. The result is states that permit ADW benefit financially while New Mexico does not.**
- 5) What would be the impact of terminating the commission? **The commission plays a vital role in the enforcement of the rules of racing that protects the integrity of the sport as well as the safety of the horses, jockeys, and other participants. The New Mexico Racing Commission is important to our industry as they work closely with all of the stakeholders in our state as well as licensing, testing, race dates, & rules that pertain to New Mexico racing in particular.**

Input from Sunland Park

- 1) How does NMRC provide value for licensees and other stakeholders?

The NMRC regulates the horse racing industry. They issue licenses to conduct race meets and allocate race dates. They also license the individuals who are part of the racing industry in New Mexico. The agency does its best to ensure the integrity and soundness of New Mexico horse racing. The NMRC executive director, Ismael "Izzy" Trejo has made himself available at all times of the day to discuss any issues related to the horse racing industry. He has been a great asset to the NMRC and is the best Executive Director to work with since I have been in New Mexico. The new NMRC chairman, Sam Bregman recently had a New Mexico Racing Summit at Ruidoso to discuss issues in the industry. Mr. Bregman is very passionate about improving horse racing in New Mexico. The Racing Commission is currently very strong and on is top of what it will take to make horse racing in New Mexico stronger.

- 2) How does NMRC promote the safe and effective practice of horseracing in New Mexico?

The NMRC has been one of the leaders in the number of Out of Competition Testing in the nation. This has been instrumental in detecting substances in horses that have steroidal effects or substances that should never be administered to a horse.

The rates of positive post-race tests have declined drastically over the last few years.

New Mexico has instituted multiple medication violation penalty system (MMVPS), They have adopted the ARCI penalties and thresholds for medications, and the lab they use is accredited.

The NMRC has issued more severe penalties for medication violations, which hopefully will cause participants to follow the rules more closely.

- 3) Is the commission well run? What, if any, changes would you like to see in commission composition, operations, or other activities?

The NMRC is well run. I would like to see them to have more money in their budget for "boots on the grounds" in the barn area or to have an investigator on site at racetracks every race day.

- 4) Do current statutes allow for effective and efficient regulation of horseracing? Would you recommend any changes to statute?

Having a statute that requires 4 race days a week and 9 races a day to have gaming has a negative effect on the industry. Likewise, the statute requiring year-round racing in New Mexico is not tied in any way to the health of the industry. The trend in the horse racing industry is that horse run less often. By having a statute that requires racetracks to run 4 days a week and 9 races a day it has led to smaller field sizes and the quality of racing suffers. Race dates should be determined by the racing commission, with no artificial number attached to the number of racing days per year or races per day.

- 5) What would be the impact of terminating the commission?

This would end regulated horse racing in New Mexico and may lead to more illegal horse racing at unsanctioned “match tracks.” With no oversight at these match tracks the safety of the race horses and human participants is in serious jeopardy. Match tracks not only have illegal gambling, but other illicit activities have been reported such as drug trafficking, money laundering, illegal alcohol sales, and prostitution.

Input from Zia Park

Zia Park, LLC, dba Zia Park Casino, Hotel & Racetrack located in Hobbs (“Zia Park”) thanks the Legislative Finance Committee for allowing comments on the Racing Sunset Review. Zia Park is owned by Penn National Gaming, Inc, the nation’s largest regional gaming operator and is also the largest operator of pari-mutuel racing facilities in North America with 13 locations in nine different jurisdictions. Penn National Gaming, Inc. operations conduct over 1,000 live horse racing event dates a year with nearly \$1 billion wagered on live and simulcast races at its facilities.

1) How does NMRC provide value for licensees and other stakeholders?

The NMRC is responsible for providing regulation and oversight of the horse racing industry in the state and enforcing all applicable statutes and regulations for the industry. Licensure of all racetracks and race meets as well as licensing of all participants is handled through the Commission and the Commission is responsible for ensuring the integrity of all aspects of the industry. The current Commission staff is responsive to the needs of the industry and is proactive in dealing with many issues facing the horse racing industry in the state. The Commission’s executive director, Ismael Trejo, is always looking to bring best practices from other jurisdictions to improve the quality and integrity of the New Mexico racing industry. The new chairman of the Commission, Sam Bregman, has refocused the Commission and its staff and brought a new enthusiasm and positive outlook for the industry in a short time. The Commission is actively working with stakeholders to improve the overall business climate surrounding racing and make the New Mexico racing industry competitive on the regional and national stage.

2) How does NMRC promote the safe and effective practice of horseracing in New Mexico?

The NMRC has adopted many of the best practices and model rules as put forth from the Association of Racing Commissioners International (ARCI) including standardization of drug testing methods and thresholds, lab accreditation and a multiple medication violation penalty system (MMVPS.) The Commission seeks to have New Mexico at the forefront of integrity related matters and has been a strong proponent of Out of Competition Testing which helps ensure a level playing field for all racing participants. The Commission seeks regular feedback and input from the industry stakeholders in the area of safety and integrity matters

3) Is the commission well run? What, if any, changes would you like to see in commission composition, operations, or other activities?

Our organization interacts with many state racing commissions in the multiple jurisdictions in which we have horse racing operations. In our opinion, the NMRC is a well-run organization and we appreciate their collaborative and professional approach with industry stakeholders. We have made several recommendations in terms of possible improvements to overall integrity and safety standards and the Commission has taken a serious look at these items but adequate funding to implement these items is always a limiting factor. We would hope that the Commission could get the resources it needs to provide adequate enforcement its rules and regulations and to continue to make New Mexico horseracing safe and fair for all participants.

4) Do current statutes allow for effective and efficient regulation of horseracing? Would you recommend any changes to statute?

Several current statutes applicable to the racing industry have placed constraints on the horse racing industry. First, the requirement of four live racing dates per week (with minimum 9 live races per day for the majority of racetracks in the state) virtually year-round provides no flexibility in allowing needed “rest” periods between race meets for the health and welfare of the race horses and to create a more desirable product for the wagering public. This is contrary to basic supply and demand economics and the current statute creates an artificial requirement that is not beneficial to the long-term health of the industry.

Second, the requirement that New Mexico racetracks pay a premium of 10% to the winning breeders of a race exclusively for New Mexico bred horses is a factor in limiting the number of such races for state bred horses. There is little incentive for racetracks to card more races for horses bred in the state of New Mexico with this regressive tax and no other racing jurisdiction in the United States requires racetracks to pay this type of fee. Instead, such incentives should come directly from funding through prize money or incentive funds for state breeders.

Next, horse racing depends on pari-mutuel wagering to drive revenues for purses and operations. Businesses must evolve and change and have flexibility to make changes to improve and adapt. Horse racing is no different, however, racing cannot even set a reasonable “price” for its product to the general public. We advocate the ability to allow racetracks to change its takeout, or commission rates charged on wagers, to be more competitive with other gaming options. Currently there are upper and lower limits on takeout based on state statute. We recommend racetracks be permitted to set takeout levels they deem appropriate, with approval of the Racing Commission.

Finally, rather than directing all the industry proceeds of gaming funds into purses/prize money or breeding funds (currently 20% of gross gaming revenue from slot machine operations at the state’s racetracks goes for these purposes), allocations should be made to promote capital improvements to assist the industry at the state racetracks and for marketing initiatives to promote horse racing in the state. This balanced approach would allow a reinvestment back into racing facilities and stable areas that would benefit all constituents.

5) What would be the impact of terminating the commission?

Terminating the Commission would effectively end the horse racing industry in the state and create a deregulated abyss in which rampant cheating and negative outcomes for the health and safety of all participants would be likely. We do not recommend this type of outcome.