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## FISCAL IMPACT REPORT

SPONSOR Aragon DATE TYPED 2/12/2004 HB \_\_\_\_\_

SHORT TITLE Racetrack Finances & Leases SB 363/aSFC

ANALYST Valenzuela

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
	NFI				

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY04	FY05*			
	\$950.0 to \$2.5 million	Similar as FY05	recurring	State Fair fund

(Parenthesis ( ) Indicate Revenue Decreases)

\* verbal estimate by State Fair. State Racing Commission did not provide revenue figures.

### SOURCES OF INFORMATION

LFC Files

⇒ Legislative Council Service, *Blue Ribbon Tax Reform Commission, Final Report*, October 2003.

### Responses Received From

State Racing Commission reports no fiscal impact on its agency and did not provide revenues for horse-racing

### SUMMARY

#### Synopsis of SFC Amendment

The Senate Finance Committee amendment to Senate Bill 363 adds language that provides authority to the Expo New Mexico (State Fair) Commission to terminate a racetrack lease at the

end of any calendar year, where no class 3 tribal gaming is being conducted in New Mexico. It is unclear if this language requires termination of gaming at racetrack facilities if tribal gaming is discontinued, or simply provides the Commission discretion to renew a long-term lease for a racetrack leasee.

Another important amendment is that the Commission will be able to use its share of the pari-mutuel tax for improvements on the racetrack and related facilities, which previously was not an allowable use. As a result, only the casino facilities will be ineligible for improvement funding per the Commission share of pari-mutuel tax.

### Synopsis of Original Bill

Senate Bill 363 would earmark 50 percent of receipts from the pari-mutuel tax to the state fair for capital improvements, except for casino and racetrack, and would provide for a 25-year option on lease for the racetrack and casino at the state fair. A section-by-section analysis follows:

Section 1. Amends the State Fair enabling act by allowing the state fair to enter into long-term leases providing racetrack leasees with the use of buildings or other facilities on the ground of the state fair; leases would be limited to a maximum of 25 years;

Section 2. Amends the statutes regarding business licenses for horse racing by providing that 50 percent of the pari-mutuel tax go to the state fair; eliminates advertising, marketing and promotion deductions; substitutes "local option gross receipts taxes" as technical clean up for several local options tax acts currently outlined in the subsection.

Section 3. Provides that any facility already under a capital improvement plan as of June 30, 2004 shall not be impacted by the split of revenue proposed in this bill.

Section 4. Effective date is July 1, 2004.

### Significant Issues

SB363 would offer a 25-year option for a long-term lease of the racetrack and casino facility at the State Fair in exchange for 50 percent of the pari-mutuel tax revenue applied to capital improvements on the state fair grounds and facilities. Under current law, racetrack operators with casino operations are required to pay 2.188 percent on pari-mutuel wagering. This tax applies to four facilities: the Downs at Albuquerque, the Sun Ray track in Farmington, the Downs at Ruidoso, and Sunland Park, and will include the new racetrack facility being built in Hobbs, NM.

These facilities have two options with regard to use of the revenue: (1) can be a gross receipts tax to the state (i.e., general fund) or (2) can be reinvested in capital improvements at the horse-racing or casino facility. Typically, according to the State Fair, the racetrack operators reinvest this revenue for capital improvements.

These taxes have a statutory cross-reference to taxes identified in Section 60-1-8, which will be repealed July 1, 2006.

**FISCAL IMPLICATIONS**

The fiscal implications could be generated by applying the tax rates to total pari-mutuel revenues, which are collected and housed by the State Racing Commission. Unfortunately, this Commission did not provide revenue data or an analysis of this bill.

In a similar bill introduced in the 2003 legislative session, the State Racing Commission reported that elimination of the 2 percent pari-mutuel tax would yield \$1.9 million to the general fund. Given this amount, the State Fair could receive up to \$950 thousand in new revenue through this agreement. However, without accurate information from the State Racing Commission, it is difficult to estimate the fiscal impact. According to the State Fair, it anticipates increased revenues, from enactment of SB363, of \$2.5 million.

**MFV/dm**