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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/2/08

SPONSOR Rehm LAST UPDATED \_\_\_\_\_ HB 612

SHORT TITLE Race Track Licensee Selection by Auction SB \_\_\_\_\_

ANALYST Ortiz

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
NFI	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY08	FY09	FY10		
	Unknown	Unknown	Recurring & Non-recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY08	FY09	FY10	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		Unknown	Unknown		Recurring & Non-recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Attorney General's Office (AGO)  
Gaming Control Board (GCB)

#### No Responses Received From

State Racing Commission (SRC)

## **SUMMARY**

### Synopsis of Bill

House Bill 612 enacts a new provision in the Horse Racing Act (NMSA 60-1A-1 et seq. 1978) to require the Racing Commission to award a racetrack licensee to the highest qualified applicant/bidder at public auction, and to prevent the Commission from issuing a racetrack license after March 5, 2008 except through public auction. However, the bill also provides that if only one qualified person has filed an application for an available racetrack license, the commission shall proceed to determine whether to issue the racetrack license “notwithstanding the provisions of this section, as provided in other sections of the Horse Racing Act.”

The bill provides for application procedures, notice of the auction, and conduct of the auction. The bill prohibits the acceptance of sealed or electronically transmitted bids. The successful bidder/applicant must meet all conditions for licensure stated in the Horse Racing Act and rules of the commission.

## **FISCAL IMPLICATIONS**

Gaming Control Board points out that this bill would generate an unknown amount of non-recurring revenue based on the dollar amount of the winning bid. It would also generate an unknown amount of recurring revenue based on taxes imposed on the pari-mutuel wagering at a new racetrack.

Likewise this bill would result in unknown additional non-recurring operating expenses based on the background investigations that would be required to be performed in order to determine whether the bidders are qualified to hold a horse racetrack license. The bill does not provide a means to recoup the cost of background investigations from the bidders. This bill would also result in additional recurring operating expenses based on the need to regulate an additional horse racetrack and gaming operator licensee.

## **SIGNIFICANT ISSUES**

Several important concerns about this bill are raised by GCB, such as the bill does not permit the New Mexico Racing Commission to set a minimum bid for the license and does not allow the Racing Commission to reject a bid that it deems too low. Nor does the bill address the issue of which fund would receive the revenues from the auction of the horse racetrack license or the use to which those revenues could be put.

Next, the bill does not allow the Racing Commission to take factors other than auction bid into consideration in awarding the license--for example the overall quality of the proposal, potential local economic impact, overall potential for generating tax revenue, etc. This could result in sacrificing long-term recurring tax revenue for a one-time, non-recurring bid payment.

Additionally, the bill does not address the issue of how qualifications of the winning bidder to hold a horse racetrack gaming operator license would be addressed. This potentially could create a situation in which the winning bidder for the horse racetrack license would be found ineligible to hold a horse racetrack gaming operator license.

Finally, the bill does not address the issue of whether a request to relocate an existing horse racetrack license would be subject to the auction requirements of the bill.

**OTHER SUBSTANTIVE ISSUES**

The Attorney General’s Office points out that NMSA Section 60-1A-8 I (1978) provides: “If there is more than one application for a racetrack license pending at the same time, the commission shall determine the racing days that will be allotted to each successful applicant.” This bill will presumably render that provision irrelevant, as there will only be one successful applicant awarded a racetrack license after public auction. However, the bill should not have any effect on the Commission’s authority to allocate racing days among all racetrack licensees, including new licensees who were granted licenses after public auction, as provided in NMAC 15.2.1.8I.

EO/nt