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SENATE JOINT RESOLUTION 10

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

INTRODUCED BY

Mimi Stewart

A JOINT RESOLUTION

PROPOSING TO EXTEND THE LEASE FOR THE DOWNS AT ALBUQUERQUE,
INCORPORATED.

WHEREAS, Section 13-6-3 NMSA 1978 requires ratification and approval by the legislature of a lease for a period exceeding twenty-five years in duration of real property belonging to a state agency, which lease shall be for a consideration of one hundred thousand dollars (\$100,000) or more; and

WHEREAS, the Downs at Albuquerque, incorporated, has, since January 11, 1985, leased from the New Mexico state fair the racetrack, grandstand and casino area of the state fairgrounds, which is operated by the lessee as the Downs at Albuquerque, incorporated, at 300 San Pedro drive NE, Albuquerque, New Mexico; and

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1 WHEREAS, the consideration paid for the lease by the
2 Downs at Albuquerque, incorporated, since January 11, 1985,
3 has been one hundred thousand dollars (\$100,000) or more; and

4 WHEREAS, the current lease between the parties commenced
5 on January 12, 2012, for a term of three hundred months, or
6 twenty-five years; and

7 WHEREAS, as a result of the public health orders issued by
8 the department of health in response to the coronavirus disease
9 2019 pandemic, the Downs at Albuquerque, incorporated, was
10 required to cease all operations effective March 16, 2020; and

11 WHEREAS, on April 1, 2020, the Downs at Albuquerque,
12 incorporated, served formal notice of a force majeure event
13 pursuant to the terms of the lease; and

14 WHEREAS, the parties desire to enter into an agreement and
15 release of claims to address issues arising under the lease due
16 to the cessation of the operations of the Downs at Albuquerque,
17 incorporated, during the coronavirus disease 2019 pandemic; and

18 WHEREAS, as a term of the agreement and release of claims,
19 the parties agree that fifty percent of the April 2020 rent,
20 including rent paid under Sections 2.2, 4.3, 4.3.3, 6.1 and 6.2
21 of the lease, will be abated and the remaining fifty percent of
22 the rent will be deferred; rent will be deferred for the
23 additional months that the Downs at Albuquerque, incorporated,
24 remained closed; rent will also be deferred for six months
25 after the Downs at Albuquerque, incorporated, was allowed to

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1 reopen; and all deferred rent will be paid by the Downs at
2 Albuquerque, incorporated, in equal monthly installments over
3 the extended term of the lease; and

4 WHEREAS, as a term of the agreement and release of claims,
5 the parties agree to release and discharge each other from any
6 and all outstanding liabilities, obligations, claims, rights,
7 demands, damages, suits or causes of action relating to matters
8 addressed within the agreement and release of claims; provided
9 that the matters are resolved as provided for in the agreement
10 and release of claims; and

11 WHEREAS, as a term of the agreement and release of claims,
12 the parties desire to extend the current lease for an
13 additional one hundred twenty months to February 28, 2047;

14 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE
15 STATE OF NEW MEXICO that an extension of the lease between the
16 New Mexico state fair and the Downs at Albuquerque,
17 incorporated, for the racetrack, grandstand and casino area of
18 the state fairgrounds, which is operated by the lessee as the
19 Downs at Albuquerque, incorporated, until February 28, 2047 be
20 hereby ratified and approved; and

21 BE IT FURTHER RESOLVED that a copy of this resolution be
22 transmitted to the state fair commission.