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## FISCAL IMPACT REPORT

ORIGINAL DATE 01/26/10

SPONSOR Cisneros LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Allow Dog Race Simulcasting at Racetracks SB 24

ANALYST Ortiz

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY10	FY11		
	No Appropriation		

(Parenthesis ( ) Indicate Expenditure Decreases)

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
	\$7.8	\$8.3	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

This estimate is made by the Department of Finance Administration based on historic data from the New Mexico Gaming Control Board and assumes total simulcasting revenues increase by 5% if dog races are added.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Taxation and Revenue Department (TRD)  
 Department of Finance and Administration (DFA)  
 State Racing Commission (SRC)

### SUMMARY

#### Synopsis of Bill

Senate Bill 24 amends the Horse Racing Act to allow licensed racetracks in New Mexico to simulcast dog races from locations outside New Mexico. The bill also increases the limit of the daily pari-mutuel tax imposed on Class A and Class B racetrack licensees' gross daily handle from \$300 per racing day to \$600 per racing day.

## FISCAL IMPLICATIONS

According to DFA, 1/4 percent of gross take for Class A racetracks on dog race simulcasting is to be allocated through TRD to the general fund. Very small additional revenues to the general fund may be expected through the designated allocation to the general fund on simulcasted dog racing at Class A racetracks.

At a national level in 2003, all dog racing had a consumer spending market share of less than 15% of horse racing, per reports from Christiansen Capital Advisors LLC. This is assumed to be an upper bound as total dog racing declines and as simulcast dog racing appears to have a smaller market share than live dog racing.

Reports of tracks switching from live to simulcast dog racing indicate a smaller share of simulcast to live racing. National trends point towards simulcast as a currently growing transition venue as dog racing in total continues to decline.

New Mexico Gaming Control Board reports a 6.5 percent growth in amount paid into horse racing purses from FY06 to FY07. This analysis assumes that growth rate holds for the future in all animal racing and that dog race simulcast share is around 5 percent of horse racing metrics.

The general fund allocation, through TRD, per the bill, would be 1/4 percent on dog racing simulcasting gross take. Using the FY07 level of horse racing as a base and a 6.5 percent annual growth rate, gives us:

Revenue based on gaming tax on dog racing simulcast (assumes 6.5% annual growth rate, 5% share of horse racing, 1/4 % of gross take to general fund through TRD, all at class A racetracks)

FY11 \$7,823

FY12 \$8,323

FY13 \$8,854

FY14 \$9,420

FY15 \$10,021

Gaming Control Board points out that the bill may eliminate revenues based on revenue sharing from New Mexico tribal casinos, if the tribes challenge the addition of simulcasting of and pari-mutuel wagering on dog racing as an expansion of gaming under Section 11.D of the State/Tribal Gaming Compacts and terminate revenue-sharing payments.

## SIGNIFICANT ISSUES

Permitting simulcasting of and pari-mutuel wagering on dog racing may constitute an expansion of gaming under Section 11.D of the State/Tribal Gaming Compacts, thus allowing the tribes to terminate revenue-sharing payments.

Senate Bill 24 may have an adverse effect on the revenue sharing provisions of the compacts. The revenue sharing provisions of the Indian gaming compacts provide that payments to the state shall terminate if the state " licenses, permits or otherwise allows any non-Indian person or entity to engage in any other form of Class III gaming other than a state-sponsored lottery, parimutuel betting on horse racing and bicycle racing, operation of Gaming Machines, and limited fundraising ...". There are other provisions in which the parties agree on the type of licensed

gaming by the state that is permitted and one of these types is "the conduct by licensed horse racetracks and bicycle tracks of parimutuel betting on races at such tracks, and **on simulcast races at other tracks** elsewhere in the country" (emphasis added). SB24 would be a violation of this provision if the "simulcast races at other tracks" language is limited to horse racetracks or bicycle tracks. Although only a court could conclusively resolve the issue, in my opinion the intent of the provision is to limit the simulcast races to horse races and bicycle races.

### **OTHER SUBSTANTIVE ISSUES**

In some other states, simulcasted racing is seen as a tool to ease a transition entirely away from live dog racing as it declines. As New Mexico does not have live dog racing, this function of simulcasted dog racing is unnecessary.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

New Mexico will continue not to allow wagering on dog racing, which would have minimal, if any consequences, as the national trend for dog racing continues to decline.

EO/svb